

State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021

[2021-726]



New South Wales

Status Information

Currency of version

Historical version for 16 December 2022 to 8 June 2023 (accessed 20 June 2024 at 5:19)

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 Amendment \(Redfern–North Eveleigh Paint Shop Sub-precinct\) 2023 \(84\)](#) (amended by [Sydney Local Environmental Plan Amendment \(Precincts\) 2023 \(275\)](#)) (not commenced — to commence on 15.12.2023)
 - [State Environmental Planning Policy Amendment \(Blackwattle Bay Precinct\) 2022 \(826\)](#) (amended by [Sydney Local Environmental Plan Amendment \(Precincts\) 2023 \(275\)](#)) (not commenced — to commence on 8.9.2023)

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 8 June 2023

State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021



New South Wales

Contents

Chapter 1 Preliminary	10
1.1 Name of Policy	10
1.2 Commencement	10
1.3 Definitions	10
1.4 Transferred provisions	10
Chapter 2 State significant precincts	11
Part 2.1 Preliminary	11
2.1 Aims of Chapter	11
2.2 Application of Policy—transitional Part 3A projects	11
2.3 Definitions and key concepts	11
2.4 Maps	12
2.5 Land to which Chapter applies	12
2.6 Relationship to other environmental planning instruments	13
Part 2.2 State significant precincts	13
2.7 State significant precincts	13
2.8 Development for which Minister is consent authority under the Act, Part 4	13
2.9 Development that does not require consent under the Act, Part 4	14
2.10 Subdivision certificates for Part 3A projects	14
2.11 Walsh Bay—designated consent authority	14
2.12 Sydney Harbour Foreshore Sites—consent authority	15

Chapter 3 Darling Harbour	15
3.1 Land to which Chapter applies	15
3.2 Objects of plan	15
3.3 Plan not to apply to acts of the Authority	16
3.4 Definitions	16
3.5 Permit required for certain development.....	16
3.6 Prohibition of all other development.....	17
3.7 Permits required for renovation and demolition	17
3.8 Development etc of the Corn Exchange	17
3.9 Development etc of buildings on the same street frontage as the Corn Exchange	18
3.10 Other development in the vicinity of the Corn Exchange	18
Chapter 4 City West	18
Part 4.1 Introduction	18
4.1 Area covered by this Chapter	18
4.2 Precincts.....	19
4.3 Aims of this Chapter	19
4.4 How environmental planning instruments affect City West.....	19
4.5 Suspension of covenants and other instruments.....	20
4.6 Definitions	20
Part 4.2 City West	20
4.7 Land covered by this Part.....	20
4.8 Planning principles of regional significance for City West.....	20
Part 4.3 Precincts	23
Division 1 Land to which Part 3 applies	23
4.9 Land covered by this Part.....	23
Division 2 Development consent	23
4.10 General requirement for development consent.....	23
4.11 Consent authority	24
4.12 Subdivision—consent requirements	24

Division 3 Planning principles for Precincts	24
4.13 Planning principles of regional significance for Precincts	24
Division 4 Zoning	29
4.14 How land is zoned	29
4.15 Residential Zone	29
4.16 Residential-Business Zone	30
4.17 Public Recreation Zone	31
4.18 Waterways Zone	31
4.19 Railways Zone	32
4.20 Waterfront Use Zone	32
4.21 Port and Employment Zone	32
4.22 Use of unzoned land	33
4.23 Activity Strips	33
4.24 Advertising	33
4.25 Temporary and interim uses	33
Division 5 Building height and floor space controls	34
4.26 Maximum building heights	34
4.27 Application of urban design planning principles	34
4.28 Landmark locations	34
4.29 Graduated building heights adjacent to heritage items and conservation areas	34
4.30 Scale and alignment of building facades	35
4.31 Floor space limits in Master Plan areas in Ultimo-Pyrmont Precinct	35
4.32 Floor space limits in non-Master Plan areas in Ultimo-Pyrmont Precinct	35
4.33 Floor space limits in Eveleigh Precinct.....	36
4.34 Application of design and height controls for maximum floor space ratios in non-Master Plan areas	36
4.35 Exceptions to development standards	37
Division 6 Heritage conservation	38
4.36 Heritage items and conservation areas	38
4.37 General considerations	38
4.38 Duty of consent authority	38

4.39 Conservation management plans and heritage impact statements	38
4.40 Demolition of heritage items	39
4.41 Potential archaeological sites	39
Division 7 Urban development plans	39
4.42 Use of plans	39
4.43 Content of plans	39
4.44 Preparation of draft plans	40
4.45 Consultation	40
4.46 Adoption of plans and amendments	40
4.47 Availability of plans.....	40
Division 8 Master Plans	40
4.48 Requirement for and use of Master Plans	40
4.49 Content of Master Plans.....	41
4.50 Preparation of Master Plans.....	41
4.51 Consultation	41
4.52 Adoption of Master Plans and amendments	42
4.53 Amendment of Master Plans.....	42
4.54 Availability of Master Plans	42
4.55 Flexible uses of land requiring a Master Plan	43
4.56 Flexible building heights on land requiring a Master Plan	43
Division 8A Prohibited land uses	43
4.57 Pawnbrokers shops and money lending businesses	43
4.57A Canal estate development prohibited	44
Division 9 Miscellaneous provisions	44
4.58 Land decontamination	44
4.59 Removal of sandstone	44
4.60 Views of other bodies about development in Precincts	44
4.61 Views of other bodies about development within Waterways Zone.....	45
4.62 Acquisition of land	45
Part 4.4 Temporary use of land for the purpose of a school at Wentworth Park	

.....	45
4.63 Temporary use of land for the purpose of a school at Wentworth Park.....	45
Chapter 5 Walsh Bay	46
Part 5.1 Preliminary	46
5.1 Aims, objectives etc	46
5.2 Land to which Chapter applies	47
5.3 Definitions	47
5.4 Adoption of Model Provisions.....	48
5.5 Suspension of laws	49
5.6 Consent authority	49
Part 5.2 General restrictions on development of land	49
5.7 Zones indicated on the map.....	49
5.8 Zone objectives and development control table.....	49
5.9 Exceptions to development standards	51
5.10 Conversion of fire alarms.....	53
5.10A Canal estate development prohibited	53
Part 5.3 Special provisions	54
5.11 Walsh Bay Conservation Zone	54
5.12 Advertising of applications	54
5.13 Development control code	54
5.14 Matters for consideration	55
5.15 Commercial premises	56
5.16 Designated development	56
5.17 Preliminary development and temporary uses of land	56
Chapter 6 Cooks Cove	57
Part 6.1 Preliminary	57
6.1 Aims of Chapter.....	57
6.2 Land to which Chapter applies	57
6.3 Relationship to other environmental planning instruments.....	58
6.4 Consent authority	58

6.5 Definitions	58
6.6 Complying and exempt development.....	58
6.7 Adoption of model provisions	58
6.8 Savings and transitional provisions	59
Part 6.2 Planning principles.....	59
6.9 Planning principles for Cooks Cove.....	59
Part 6.3 General land use controls	61
6.10 Land use zones and explanation	61
Part 6.4 Special provisions	65
6.11 Subdivision and demolition	65
6.12 Infrastructure provision	65
6.13 Master plan.....	66
6.14 Floor area controls.....	68
6.15 Height of buildings	68
6.16 Environmental management—management plans.....	69
6.17 Environmental management—special requirements	71
6.18 Development of flood prone land	72
6.19 Management of open space	72
6.20 Development of land near Sydney Airport runways	72
6.21 Heritage protection	72
6.22 Acid sulfate soils.....	73
6.23 Acquisition of land zoned Special Uses.....	74
6.24 Additional documentation for development in Trade and Technology Zone	74
6.25 Development allowed on certain land for recreation facility	74
6.26 Temporary use of land	74
Chapter 7 Moore Park Showground.....	75
Part 7.1 Preliminary.....	75
7.1 Land to which this Chapter applies.....	75
7.2 Aims and objectives	75
7.3 Relationship to other environmental planning instruments.....	76
7.4 Definitions	76

7.5 Consent authority	78
Part 7.2 Development on land shown diagonally hatched	78
7.6 Development permissible with development consent	78
7.7 Development for musical entertainment and public entertainment.....	78
7.8 Use of the Banquet Hall.....	78
7.8A Development consent not required for Airfields event on 19 March 2022	78
7.9 Development permissible without development consent.....	78
Part 7.3 Development on land shown vertically hatched	79
7.10 Development permissible with development consent	79
7.11 Development permissible without development consent.....	79
Part 7.4 General	79
7.12 Exceptions to development standards	79
7.13 Suspension of certain provisions of Local Government Act 1993	80
7.14 Advertising development applications.....	81
7.15 Matters for consideration	81
7.16 Floor space	82
7.17 Carrying out of public utility undertakings and certain other development	82
7.18 Temporary use of land	82
7.19 Conversion of fire alarms.....	83
7.20 Temporary use of land at Entertainment Quarter until 1 January 2026	84
7.21 Canal estate development prohibited	85
Appendix 1 State significant precinct—Sydney Opera House.....	85
Appendix 2 State significant precinct—Luna Park site	93
Appendix 3 State significant precinct—Redfern-Waterloo Authority sites	100
Appendix 4 State significant precinct—North Head Federal Police Training site	117
Appendix 5 State significant precinct—Barangaroo site	119

Appendix 6 State significant precinct—Wahroonga Estate site	129
Appendix 7 State significant precinct—Sirius site	139
Appendix 8 Stage 1 Bays West Precinct	146
Schedule 1 Development that may be carried out under a permit	167
Schedule 2 Definitions	167
Schedule 3 Development not requiring consent	171
Schedule 4 Heritage items	173
Schedule 5 Complying development	178
Schedule 6 Exempt development	181
Schedule 7 Heritage items	183
Schedule 8 Dictionary for Chapter 6	183
Schedule 9 Heritage items	188

State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021



New South Wales

Chapter 1 Preliminary

1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021*.

1.2 Commencement

This Policy commences on 1 March 2022 and is required to be published on the NSW legislation website.

1.3 Definitions

In this Policy—

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

1.4 Transferred provisions

The *Interpretation Act 1987*, section 30A is taken to apply to the provisions transferred to this Policy on the commencement of this Policy in the same way as it applies to provisions transferred from a statutory rule to another statutory rule.

Note—

The *Interpretation Act 1987*, section 30A provides—

- (a) the transfer of a provision does not affect the operation or meaning of the provision, and
- (b) a transferred provision is to be construed as if it had not been transferred.

Chapter 2 State significant precincts

Part 2.1 Preliminary

2.1 Aims of Chapter

The aims of this Chapter are as follows—

- (a) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State,
- (b) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.

2.2 Application of Policy—transitional Part 3A projects

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

Note—

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

- (2) The repeal of clauses 6–6C and Schedules 1, 2 and 5 of this Chapter, and the other amendments made to this Chapter, by the *State Environmental Planning Policy (State and Regional Development) 2011* do not affect any of the following—
 - (a) the declaration under this Chapter of a project as a project or a critical infrastructure project under Part 3A, if that project is a transitional Part 3A project,
 - (b) any certificate in force under clause 6C immediately before that repeal.
- (3) Particular development is not a transitional Part 3A project if—
 - (a) another provision of this Chapter or a provision of another environmental planning instrument, whether made before or after this Chapter takes effect, provides that the particular development is exempt or complying development, and
 - (c) the particular development is not carried out as part of or in conjunction with other development that is a transitional Part 3A project.

2.3 Definitions and key concepts

- (1) In this Chapter—

capital investment value has the same meaning as in the *Environmental Planning and Assessment Regulation 2021*.

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

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

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

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Chapter.

- (2) Words and expressions used in this Chapter have the same meaning as they have in Schedule 6A to the Act.
- (3) A reference to this Chapter includes a reference to an Appendix made under this Chapter.

2.4 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter 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 Chapter 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 Chapter, a map may be in, and may be kept and made available in, electronic or paper form, or both.
- (5) A map referred to in an Appendix made under this Chapter is taken to be a map adopted by this Chapter.

2.5 Land to which Chapter applies

This Chapter applies to the State.

2.6 Relationship to other environmental planning instruments

Subject to section 74(1) of the Act, in the event of an inconsistency between this Chapter and another environmental planning instrument whether made before or after the commencement of this Chapter, this Chapter prevails to the extent of the inconsistency.

Part 2.2 State significant precincts

2.7 State significant precincts

- (1) Each Appendix made under this Chapter describes a State significant precinct and contains provisions relating to the carrying out of development in the State significant precinct.
- (2) The Minister may publish guidelines for proposals to amend an Appendix made under this Chapter.
- (3) Subsection (2) does not prevent an amendment of an Appendix made under this Chapter without compliance with the guidelines.

2.8 Development for which Minister is consent authority under the Act, Part 4

- (1) The Minister is the consent authority under the Act, Part 4 for development requiring consent under that Part that is of a kind specified in this section, other than development that is—
 - (a) a transitional Part 3A project, or
 - (b) State significant development, or
 - (c) State significant infrastructure.
- (2) **Redfern-Waterloo Authority sites** Development with a capital investment value of not more than \$10 million on land to which Appendix 3 applies.

Note—

Development controls in relation to the Redfern-Waterloo Authority Sites for development under the Act, Part 4 are contained in Appendix 3.

- (3) (Repealed)
- (4) **Sydney Harbour** Development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on the *Sydney Harbour Port and Related Employment Lands Map*, if the development—
 - (a) has a capital investment value of not more than \$10 million, and
 - (b) is carried out by a person other than a public authority.
- (5) **Luna Park Site** Development with a capital investment value of not more than \$10

million within the area identified as Luna Park on the *State Significant Development Sites Map* under *State Environmental Planning Policy (State and Regional Development) 2011*.

- (5A) **Stage 1 Bays West Precinct** Development with a capital investment value of more than \$10 million on land to which Appendix 8 applies.
- (6) Despite subsection (1), the Minister is not the consent authority for particular development under this section if—
- (a) another provision of this Chapter or a provision of another environmental planning instrument, whether made before or after this Chapter takes effect, provides that the development is exempt or complying development, and
 - (b) the development is not carried out as part of or in conjunction with other development for which the Minister is the consent authority.

2.9 Development that does not require consent under the Act, Part 4

- (1) Development specified in this section is development that does not require consent under the Act, Part 4.

Note—

Development specified in this section will be subject to the environmental assessment and approval requirements of the Act, Part 5 if it is not a transitional Part 3A project or State significant infrastructure.

- (2) **Port and related employment lands development by public authority** Development with a capital investment value of not more than \$10 million carried out by a public authority within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on the *Sydney Harbour Port and Related Employment Lands Map*.

2.10 Subdivision certificates for Part 3A projects

Subject to section 75S of the Act, a subdivision certificate may be issued by an accredited certifier for a subdivision that is a transitional Part 3A project in accordance with section 6.5(3)(a) of the Act.

2.11 Walsh Bay—designated consent authority

- (1) This Chapter terminates the powers and functions of the Minister administering the *Walsh Bay Development (Special Provisions) Act 1999* as the consent authority under the *Environmental Planning and Assessment Act 1979* and appoints the Council of the City of Sydney as the consent authority for that development.
- (2) This section does not affect the operation of Part 3A of the Act in relation any development at Walsh Bay that is a transitional Part 3A project.
- (3) This section does not affect the operation of Division 4.7 or 5.2 of the Act in relation to any development at Walsh Bay that is development to which those provisions apply.

Note—

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

2.12 Sydney Harbour Foreshore Sites—consent authority

- (1) This section applies to development on land identified as a Sydney Harbour Foreshore Site on the [Sydney Harbour Foreshore Sites Map](#) that is not State significant development.
- (2) Despite clauses 22(1) and 28(1) of Schedule 6 to the Act, the consent authority for development to which this section applies is the Council of the City of Sydney.

Note 1—

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

Note 2—

The Council of the City of Sydney is the consent authority for development on land in the Sydney Harbour Foreshore Sites that is in Walsh Bay under this Policy, Chapter 5, and the Bank Street Precinct, Circular Quay and the Sydney Casino (under *Sydney Local Environmental Plan 2005*).

Chapter 3 Darling Harbour

3.1 Land to which Chapter applies

- (1) Except as provided by subsection (2), this Chapter applies to the whole of the land within the Development Area, as varied from time to time.
- (2) This Chapter does not apply to land in respect of which an order is in force under clause 3B of the *Darling Harbour Authority Regulation 1984*.

3.2 Objects of plan

- (1) The objects of this Chapter are—
 - (a) to promote the development of the Darling Harbour area as part of the State's Bicentennial Program,
 - (b) to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area, and
 - (c) to make provision with respect to controlling development within that area.
- (2) The means whereby this Chapter aims to achieve its objects are—
 - (a) by providing that certain kinds of development may not be carried out in the Darling Harbour area otherwise than in accordance with the terms of a permit,
 - (b) by prohibiting all other kinds of development within that area, and

- (c) by ensuring that the controls that apply in that area in relation to the carrying out of development apply also in relation to the demolition and renovation of buildings and works.

3.3 Plan not to apply to acts of the Authority

This Chapter does not apply to or in respect of any act, matter or thing done or caused to be done by the Authority pursuant to Part 3 of the Act.

3.4 Definitions

- (1) In this Chapter, except in so far as the context or subject-matter otherwise indicates or requires—

child care centre has the same meaning as it has in the *Environmental Planning and Assessment Model Provisions 1980*.

conservation has the same meaning as it has in the *Australia ICOMOS Charter for the Conservation of Places of Cultural Significance* (“the Burra Charter”), as adopted by the Australia ICOMOS on 23 February 1961.

demolition, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of that building or work, in whole or in part.

light industry has the same meaning as it has in the *Environmental Planning and Assessment Model Provisions 1980*.

moneylending does not include the business of lending money carried out by a bank, building society or credit union.

pawnbroking means the business of lending money on the security of pawned goods.

recreation facility has the same meaning as it has in the *Environmental Planning and Assessment Model Provisions 1980*.

renovation, in relation to a building or work, means the making of non-structural changes to the fabric or appearance of the outside of the building or work (including changes that involve the repair, or the painting, plastering or other decoration, of the outside of the building or work).

the Act means the *Darling Harbour Authority Act 1984*.

- (2) Such of the expressions used in Schedule 1 as are defined in the *City of Sydney Planning Scheme Ordinance* have the same meanings as they have in that Ordinance.

3.5 Permit required for certain development

Development—

- (a) for the purposes of tourist, educational, recreational, entertainment, cultural or commercial facilities (other than facilities used for pawnbroking or other forms of moneylending),
- (b) for the purposes of transport facilities,
- (c) for the purposes of beautifying the landscape,
- (d) for any purpose specified in Schedule 1, or
- (e) for any purpose incidental or subsidiary to a purpose referred to in paragraph (a), (b), (c) or (d),

may not be carried out except with a permit being obtained therefor.

3.6 Prohibition of all other development

Development of a kind not referred to in section 3.5, or of a kind referred to in section 3.5 by way of exception only, is prohibited.

3.7 Permits required for renovation and demolition

- (1) The renovation or demolition of a building or work may not be carried out except with a permit being obtained therefor.
- (2) Part 5 of the Act applies to and in respect of the renovation or demolition of a building or work in the same way as it applies to and in respect of the carrying out of development.

3.8 Development etc of the Corn Exchange

- (1) This section applies to that part of Lot 1, DP 775101, on which the building known as the Corn Exchange is situated.
- (2) Conservation of the Corn Exchange may not be carried out except with a permit being obtained therefor.
- (3) Part 5 of the Act applies to and in respect of the conservation of the Corn Exchange in the same way as it applies to and in respect of the carrying out of development.
- (4) The Authority shall not grant a permit that would allow the Corn Exchange to be demolished, damaged or despoiled.
- (5) In determining an application for a permit for the development, conservation or renovation of the Corn Exchange, the Authority shall ensure that the heritage value of the Corn Exchange is maintained.
- (6) This section does not prevent the Authority from granting a permit for the development, conservation or renovation of the Corn Exchange that enhances, or does

not detract from, its heritage value.

3.9 Development etc of buildings on the same street frontage as the Corn Exchange

- (1) This section applies to Lot 1, DP 775101, other than that part of that lot on which the building known as the Corn Exchange is situated.
- (2) In determining an application for a permit for the carrying out of development on the land to which this section applies, or for the renovation or demolition of any building situated on that land, the Authority—
 - (a) shall ensure that the heritage value of the Corn Exchange is maintained, and
 - (b) shall ensure that—
 - (i) a sufficient number of the buildings situated on the land are retained, and
 - (ii) any infill development is carried out on the street frontage,so as to maintain the coherence of the streetscape.

3.10 Other development in the vicinity of the Corn Exchange

- (1) This section applies to land (other than Lot 1, DP 775101) in the vicinity of the Corn Exchange.
- (2) In determining an application for a permit for the carrying out of development on the land to which this section applies, or for the renovation or demolition of any building situated on that land, the Authority shall take into consideration the effect of the proposed development, renovation or demolition on the heritage value of the Corn Exchange.

Chapter 4 City West

Part 4.1 Introduction

4.1 Area covered by this Chapter

This Chapter applies to the land shown on Map 1 as the City West area, except such of that land as is shown as “excluded” on that map and such of that land as is within waters to which [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 6 applies.

The land to which this Chapter applies is part of the Sydney Region and is referred to in this Chapter as “City West”.

However, this Chapter does not apply to land to which [Sydney Local Environmental Plan 2012](#) applies.

4.2 Precincts

Four Precincts are intended to be created within City West.

The “Ultimo-Pyrmont Precinct” is created by this Chapter and is the land indicated by heavy black edging on Map 2, Sheet 1.

The “Eveleigh Precinct” is created by *Sydney Regional Environmental Plan No 26—City West (Amendment No 1—Eveleigh Precinct)* and is the land indicated by heavy black edging on Map 2, Sheet 2.

The “Bays Precinct” is created by *Sydney Regional Environmental Plan No 26—City West (Amendment No 7—Bays Precinct)* and is the land indicated by heavy black edging on Map 2, Sheet 3.

4.3 Aims of this Chapter

The aims of this Chapter are—

- to establish planning principles of regional significance for City West as a whole with which development in City West should be consistent, and
- to establish planning principles and development controls of regional significance for development in each Precinct created within City West by this Chapter and by subsequent amendment of this Chapter, and
- to promote the orderly and economic use and development of land within City West.

4.4 How environmental planning instruments affect City West

The planning principles for City West as a whole have effect in accordance with Part 2 in addition to other Regional Environmental Plans, State Environmental Planning Policies and (except in the case of land within a Precinct) local environmental plans.

Part 3 replaces all local environmental plans that applied to a Precinct before the Precinct was created.

Each of the following instruments is repealed to the extent that it would otherwise apply to land within a Precinct—

Sydney Local Environmental Plan No 30, and

City of Sydney Planning Scheme Ordinance, and

South Sydney Local Environmental Plan No 107 (Erskineville/Alexandria and Surry Hills), and

Interim Development Order No 27—Municipality of Leichhardt, and

Leichhardt Local Environmental Plan No 20, and

any other local environmental plan or deemed environmental planning instrument.

4.5 Suspension of covenants and other instruments

Any agreement, covenant or other similar instrument does not apply to development allowed by this Chapter to the extent necessary to allow the development to be carried out in accordance with this Chapter, and any consent granted pursuant to this Chapter, as in force from time to time.

This section does not affect the application of any of the following—

- any agreement, covenant or other similar instrument entered into, before or after the commencement of this section, by the Minister, Sydney City Council, South Sydney City Council or the Sydney Harbour Foreshore Authority, or
- any covenant required, before or after the commencement of this section, by a condition of a development consent or by the Minister, Sydney City Council, South Sydney City Council or the Sydney Harbour Foreshore Authority.

The Governor approved of this section before [Sydney Regional Environmental Plan No 26—City West \(Amendment No 9\)](#) was made.

4.6 Definitions

(1) Certain terms used in this Chapter are defined in Schedule 2. To the extent that any particulars shown on a Sheet specified in the definition of a map in Schedule 2 are inconsistent with particulars shown on a Sheet listed later in that definition, the particulars shown on the Sheet listed later prevail.

(2) Notes included in this Chapter do not form part of this Chapter.

Part 4.2 City West

4.7 Land covered by this Part

This Part applies to City West.

4.8 Planning principles of regional significance for City West

Before granting consent to a development application relating to land within City West (whether or not within a Precinct), the consent authority must take into consideration the aim of this Chapter that development within City West should be consistent with the planning principles for City West set out in the Table to this section.

Table—Planning Principles for City West

Regional Role

Development in City West is to promote urban consolidation in the Sydney Region and consequently contribute to Sydney's status as a financial, commercial, residential and tourist city of world standing.

Development in City West is to provide benefits to the people of the Sydney Region and New South Wales.

The types and intensities of development in City West are to reflect its central location and accessibility to public transport and are to support and to complement development in the city centre.

Land Use Activities

Development in City West is to contribute to an integrated mixed-use development pattern containing a wide range of housing and employment opportunities, and educational, recreation and cultural activities.

Mixed Living and Working Environment

Development in City West is to house an increased population and to provide an increased quantity and range of employment opportunities which are compatible with the achievement of a high-quality mixed living and working environment.

Development in City West is to promote and retain close to the city centre a socially diverse residential population representative of all income groups.

Development in City West is to provide different kinds of housing, including affordable housing, to ensure that low to moderate income households may continue to be able to live in City West.

Development in City West is to provide opportunities for people to live and work at places in close proximity.

Education

Development relating to educational establishments should be based on strategies for their growth and response to technological and other changes, and their integration with surrounding development.

Leisure and Recreation

Full advantage is to be taken of the leisure and recreation facilities and the public open space in the city centre and in surrounding areas (particularly in City West) and the use of Sydney Harbour for leisure and recreation.

Public access to the entire foreshore in City West is to be provided. Opportunities for waterfront and water-based recreation and tourism activities, compatible with adjoining land uses, are to be provided.

Port Functions

The operation, concentration and rationalisation of commercial shipping facilities is to be supported to meet the changing needs of Sydney Harbour as a commercial port.

Social Issues

The needs of existing and future communities, including needs for social facilities and services are to be accommodated.

Environmental Issues

Development in City West is to ensure a high level of environmental quality by addressing issues of air quality, noise levels, wind conditions, access to light and sunshine, privacy, soil conditions and water quality.

Development in City West is to have regard to the principles of ecologically sustainable development (namely, the precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms).

Development in City West is to—

- incorporate measures to minimise waste, including (where practicable) utilising recycled materials and renewable building resources, recycling building and demolition wastes, and providing facilities for recycling and composting, and
- implement total water cycle management, including (where practicable) reducing consumption of potable water, treating and recycling waste water for re-use, minimising site run-off and stormwater generation, and reusing stormwater, and
- incorporate measures to conserve energy, including (where practicable) reducing energy consumption, and increasing inherent energy efficiency through design and materials selection, and
- promote biological diversity by measures that include (where practicable) increasing habitat through appropriate retention, planting and maintenance of native flora considered representative of the locality, and
- complement and reinforce the development and use of the existing and planned integrated public transport, pedestrian and cycling networks in City West.

Urban Design and the Public Domain

Development in City West is to enhance, complement and contribute to the development of the public domain in order to create a high-quality physical environment for access, enjoyment and recreation for residents and workers.

Development in City West is to contribute to a high level of residential amenity and convenience.

Heritage

The items and areas of heritage significance in City West are to be conserved and

enhanced. New development is to respect the character of heritage items and conservation areas. The re-use of heritage buildings through adaptation and modification is to be encouraged.

Movement and Parking

A range of housing and work, leisure and service facilities is to be provided in City West so that the need for travel is minimised.

A high degree of accessibility is to be provided to places in and outside City West for both able and disabled persons. Walking, cycling and use of public transport are to be encouraged as the means of movement.

Development in City West is to facilitate the provision and operation of a comprehensive regional public transport network.

Development, particularly that which is employment related, is to be within the capacities of existing and proposed public transport and arterial road systems.

The provision for vehicular movement is to be consistent with the development of a high-quality pedestrian environment within the street system.

Parking controls are to support public transport strategies of the Government and to reflect road network capacities.

Implementation and Phasing

Development is to contribute towards the efficient use of City West's existing infrastructure and towards the provision of physical and social infrastructure as part of the development process, in accordance with the provisions of the Act.

Part 4.3 Precincts

Division 1 Land to which Part 3 applies

4.9 Land covered by this Part

This Part applies to each Precinct.

Division 2 Development consent

4.10 General requirement for development consent

- (1) All development that is permissible within a Precinct (including the demolition of buildings) requires the consent of the consent authority, except development described in Schedule 3.
- (2) Nothing in this section prevents exempt development or complying development from being carried out in accordance with [State Environmental Planning Policy](#)

(Infrastructure) 2007 on land to which that Policy applies.

4.11 Consent authority

The relevant council is the consent authority for the purposes of this Part, except as provided by the Act.

4.12 Subdivision—consent requirements

Land to which this Chapter applies may be subdivided, but only with development consent.

Notes—

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

Division 3 Planning principles for Precincts

4.13 Planning principles of regional significance for Precincts

Before granting consent to a development application relating to land within a Precinct, the consent authority must take into consideration the aim of this Chapter that development within the Precinct should be consistent with the planning principles set out for the Precinct in the Table to this section.

Table—Planning Principles for Precincts

Part 1 Ultimo-Pyrmont Precinct

Role and Land Use Activities

Development in the Precinct is to provide for a significant increase in residential population in a mixed use development pattern also accommodating employment, educational and other uses.

Because land values in the Precinct may reasonably be expected to increase when land in the Precinct is developed in accordance with this Chapter, development in the Precinct is to provide affordable housing to ensure that low to moderate income households may continue to be able to live in the Precinct.

Where possible, development is to make use of existing under-utilised buildings and large areas of land which are either vacant or occupied by out of date facilities.

Development is to take full advantage of the Precinct's existing facilities, proximity to Darling Harbour, Central Station and other facilities of the city centre, and the extensive Pyrmont waterfront.

Retail development providing for the full range of neighbourhood needs is to be

encouraged.

Uses at the ground level of buildings fronting the public domain should complement the functions of the public domain.

Residential Development

A diverse housing stock is to be developed in the Ultimo-Pyrmont Precinct to cater for all households, including singles, couples, families, groups, the elderly, the disabled and lower income earners.

A mixture of dwelling types and sizes should be provided to enable a diverse community and promote housing choice.

High quality housing with adequate facilities and sustainable design is to be developed to encourage long-term residents and achieve urban consolidation.

Social Issues

A range of services and facilities should be provided to meet the needs of the existing and new residents and workers, including retail, leisure, recreational and welfare facilities that promote the health and well-being of the community and recognise its cultural and ethnic diversity.

Urban design is to enhance the conviviality and sense of place of the Ultimo-Pyrmont Precinct and reflect the character and heritage of the Precinct.

Development is to enable surveillance and to enhance street level activity to increase actual and perceived security.

Development is to enhance the creation of a diverse resident community through the provision of a range of dwelling unit types and sizes.

Urban Design

Building heights are to reflect and emphasise the topography of the Precinct by increasing in height as distance increases from the nearest waterfront. Building heights should allow a reasonable sharing of distant views from buildings by their occupants.

The heights and scale of buildings are to form a transition between the high-rise buildings in the city and low-rise buildings in the suburbs adjoining the Precinct.

The heights and scale of new buildings are to respect existing buildings in the locality, particularly heritage items and buildings in conservation areas.

The heights and form of buildings are to take account of visual impact, solar access, wind impact and, where appropriate, the privacy of residences, in order to contribute to a high quality of environmental amenity in intensively used parts of the public domain and in residential areas.

Buildings fronting the public domain should have appropriate height, bulk, finish and street alignment so as to enhance its quality by respecting its character. In general the scale of street facades must respect the width of adjoining streets or lanes, adjoining heritage items or other contextual elements.

Higher buildings may be accommodated—

- if they will emphasise existing or former high points in the natural ground level on Distillery Hill, Pyrmont Point, Darling Island and adjoining the CSR Stables, they will reflect the former vertical smoke-stack elements of the Pyrmont Point Power Station, or they will provide a suitable axial focal point in the vista down Liverpool Street, and
- if they will not compromise the environmental amenity and general scale of development in their locality.

Development on the waterfront and on adjoining land is to maximise the environmental quality of those parts of the peninsula for all users.

Public Domain

Public recreation areas are to provide for a range of recreational opportunities for the residents of and workers within the Precinct.

Coordinated pedestrian and cycling networks are to be provided throughout the Precinct and to link with the city centre and suburbs adjoining the Precinct. Access to major natural features such as foreshores and escarpments is to be included.

The passage of through motor traffic in residential areas and areas of pedestrian and cycling priority is to be discouraged.

Part 2 Eveleigh Precinct

Role and Land Use Activities

Public and private sector high technology industrial enterprises involved in research and development should be promoted within the Precinct. Advantage should be taken of the Precinct's proximity to the University of Sydney, the University of New South Wales and the University of Technology, Sydney.

Development in the Precinct is to include employment opportunities for people residing in, and in the vicinity of, the Precinct.

Development is to provide affordable housing which will supplement the existing housing within the Precinct.

Development is to allow the continued use of land within the Precinct for railway purposes by the State Rail Authority.

Development is to take advantage of Redfern Railway Station as a major regional public

transport node.

The provision of on-site car parking within the Precinct is to be strictly limited and the use of public transport maximised.

Development is to make efficient use of surplus Government owned land and any heritage items located on that land.

Development is to incorporate cultural and community facilities to assist in meeting the needs of the various groups constituting the residential and working populations of the locality.

Development is to be compatible with and enhance the surrounding land uses in Waterloo, Redfern and Darlington.

Urban Design

The height of new buildings should reflect and emphasise the topography of the Precinct, at the same time respecting the height and scale of heritage items.

New buildings within the Precinct that are close to the Precinct boundaries are to respect the character and height of buildings in their immediate vicinity.

Higher buildings may be accommodated towards the eastern part of the Precinct to the south of the Locomotive Workshop building and Garden Street, to provide a focus and symbol for development. Any such buildings should not compromise the environmental amenity, heritage significance and general scale of development in their locality.

Development involving former railway buildings and associated items of heritage significance is to result in their conservation and re-use.

Public Domain

Public recreation areas are to provide for a range of recreational opportunities for the residents and workers within the Precinct.

Links for pedestrians, cyclists and disabled people are to provide access to buildings and other places within the Precinct and access across the Precinct from Darlington to the Redfern/Waterloo commercial area.

Part 3 Bays Precinct

Role and land use activities

Development should reinforce and complement the role of the Precinct as a major inner-harbour port and maritime location. Development should recognise that the port operates for 24 hours of the day and that the generation of noise, lighting and traffic movement is necessarily associated with its operation.

Development in the Precinct is to provide for a mixture of commercial port, port-related, employment, waterfront and recreational uses, but is not to include residential development. The existing diversity and maritime character of the Precinct, particularly the mixed use of waterfront areas, should be retained.

Development is to take full advantage of the Precinct's location and its infrastructure, particularly rail or light rail facilities, for the port and other employment generating activities.

Development is to encourage the environmental rejuvenation of the Precinct. Where possible, future development is to encourage the segregation of port traffic from residential and recreational areas.

Development is to make efficient use of surplus government owned land.

Development is to encourage the conservation of and adaptation for re-use of existing heritage items and structures for uses compatible with new development.

Development is to contribute to improved water quality in Rozelle Bay and Blackwattle Bay.

Development on the waterfront and on land adjoining Rozelle Bay and Blackwattle Bay is to enhance the environmental quality of those areas for all users.

Urban design

Design principles to be developed in detailed planning should recognise the working industrial nature of the Precinct in close proximity to residential areas.

Development along the Precinct boundary should relate to and not adversely affect the adjoining street systems and built forms.

The siting and form of development in all areas must consider impacts on views from within the Precinct and to and across the Precinct from surrounding areas.

Public domain

Public recreation areas are to provide for a range of recreational opportunities for those working in and visiting the Precinct.

The siting and form of development must consider creating, retaining and enhancing views and vistas from the water and public domain.

Links for pedestrians, cyclists, and persons with disabilities are to be provided through the Precinct and to link and integrate the Precinct with adjoining areas.

Links through the Precinct, including public access to the foreshores, should recognise the safety and security issues associated with commercial port and maritime activities.

Development should help to create a high quality public domain in the Precinct.

Master plans for all areas should identify opportunities for public recreation, public access through sites and links to adjoining pedestrian and cyclist networks.

Division 4 Zoning

4.14 How land is zoned

Land in each Precinct is within one of the following zones—

Residential

Residential-Business

Public Recreation

Waterways

Railways

Waterfront Use

Port and Employment

The zoning of land is shown on Map 2.

Development for the purposes of roads, rail and light rail transport undertakings and facilities, fire stations and other emergency services facilities, and public utility undertakings are permissible in any zone.

4.15 Residential Zone

The only uses permissible in this zone are—

residential development; open space; recreational facilities; community facilities; non tertiary educational establishments; small-scale restaurants, retail outlets, commercial undertakings and professional services to serve the neighbourhood; public utility undertakings; other uses which the consent authority is satisfied are strictly consistent with the zone objectives.

The **objectives of this zone** are—

- to protect existing residential areas and identify future residential areas, and
- to ensure that land within the zone is primarily used for residential purposes, and
- to limit the range, scale and locations of non-residential uses to ensure that they are compatible with residential amenity and primarily serve local residents, and
- to prohibit tourist development in residential areas (including serviced apartments,

hotels and associated tourist facilities) and to prohibit brothels, and

- to limit advertising to a level compatible with the creation of a high-quality residential and mixed use area.

Non-residential uses are not to be located above the ground floor level of buildings in this zone, except where Activity Strips (as referred to in section 4.23) are indicated on Sheet 1 of Map 2 and Sheet 1 (1995 Update) of Map 2 in which case non-residential uses are also permissible on the first floor.

4.16 Residential-Business Zone

Only uses which the consent authority is satisfied are generally consistent with one or more of the zone objectives are permissible in this zone.

The **objectives of this zone** are—

- to promote a wide range of uses, particularly business development including tourist, leisure, commercial, retail and office development consistent with the Precinct's proximity to the Sydney CBD, harbour locations and transport infrastructure, and
- to accommodate residential development to a level compatible with adjoining business uses and consistent with the objective of creating a mixed use area, and
- to accommodate uses which generate employment opportunities and provide facilities and services that enable people to live and work in the same community, and
- to ensure that the total amount of employment-generating development is compatible with the traffic capacity of the Precinct and adjoining areas, and
- to encourage sustainable transport modes for journeys to work and other trips, including walking, cycling and all forms of public transport, and
- to limit advertising to a level compatible with the creation of a high-quality mixed use area.

Consent is to be granted to development within this zone only if the consent authority is satisfied that carrying out the proposed development will be consistent with the planning principles for the relevant precinct and for City West, particularly residential provision and amenity.

Residential development within this zone is not to be located or designed so that the amenity of the development is adversely affected, by an adjoining or nearby use, to a level that is considered inappropriate by the consent authority due to excessive noise or odour or any similar environmental impact.

Residential development (other than for the purpose of dwellings for employees of a business use located on the same site) is prohibited on land within this zone that is

identified by the words “Non-Residential Development” on Map 6.

4.17 Public Recreation Zone

Only uses which the consent authority is satisfied are generally consistent with the zone objectives are permissible in this zone. However, the consent authority may consent to other uses being carried out beneath land used as a public recreation area.

The **objectives of this zone** are—

- to establish public recreation areas which serve the needs of residents and workers within City West and the adjoining suburbs, and
- to provide public access to all parts of the public domain, especially waterfront areas and escarpments, and
- to provide a variety of public areas and recreational opportunities, and
- to provide for facilities which accommodate or are ancillary to recreation opportunities relating to the use of the public domain, and
- in the Bays Precinct, in addition to the other objectives of this zone—to allow for the continued operation and development of Wentworth Park as a major public open space and recreational facility.

Uses permissible in the zone adjoining the public recreation zone are also permissible in the public recreation zone for a distance of 10 metres from the zone boundary if, in the opinion of the consent authority, it would allow a better relationship between use of land as a public recreation area and use of the adjoining land and would not decrease the total amount of land that will be available for use as a public recreation area.

4.18 Waterways Zone

Only uses which the consent authority is satisfied are generally consistent with the zone objectives are permissible within this zone.

The **objectives of this zone** are—

- to provide for water-based and foreshore development which will contribute to the recreational and tourism potential of the locality, and
- to provide for the extension of ferry services which link with the land based public transport network, and
- to ensure that activities associated with development are compatible with the use of Darling Harbour and Johnston’s Bay for commercial shipping and Navy and other government functions, and
- to ensure that development on the waterways maintains or enhances the

environmental quality and amenity of the Precinct.

4.19 Railways Zone

Only uses which the consent authority is satisfied are generally consistent with the zone objectives are permissible within this zone.

The **objectives of this zone** are—

- to provide for the ongoing day-to-day operational activities of the State Rail Authority, Freight Rail Corporation and Rail Access Corporation, and
- to ensure that uses within the zone do not detrimentally impact on the use of adjoining land, and
- to provide for community facilities within and public access across the zone.

4.20 Waterfront Use Zone

Only uses which the consent authority is satisfied are generally consistent with one or more of the zone objectives are permissible within this zone.

The **objectives of this zone** are—

- to provide for development of water-based commercial and recreational activities, including facilities for the servicing, mooring, launching and storage of boats, and
- to allow a range of commercial maritime facilities (such as boating industry facilities, marinas, waterfront service operations, waterfront commercial and tourism facilities and uses associated with the servicing, temporary mooring, launching and storage of boats and uses ancillary to these), which will take advantage of the harbour location, and
- to provide public access within and across the zone and to facilitate the extension of the Ultimo-Pyrmont foreshore promenade from Blackwattle Bay to Rozelle Bay and link with public access networks surrounding the precinct, and
- to create, retain and enhance views and links between Wentworth Park and the foreshores of Blackwattle Bay.

Uses such as hotels, hotel apartments and tourist resort development will not be permitted.

4.21 Port and Employment Zone

Only uses which the consent authority is satisfied are generally consistent with one or more of the zone objectives are permissible within this zone.

The **objectives of this zone** are—

- to facilitate the continuation of commercial port uses, and
- to allow a range of commercial port facilities (such as buildings, structures, activities or operations and uses ancillary to these, associated with carrying goods from one port to another and associated with storage and handling and access to the port), and
- to encourage development on Glebe Island and land adjoining White Bay which requires close proximity to the port, and
- to encourage a mix of land uses which generate employment opportunities, particularly in relation to port and maritime uses, and
- to allow a mix of uses which generate employment opportunities in the White Bay Power Station site, and
- to provide for the ongoing rail access to the port and related activities, and
- to provide pedestrian and cyclist links with surrounding public access networks, and
- to encourage port-related uses which optimise use of existing rail facilities, and
- to provide road and rail access to port activities.

4.22 Use of unzoned land

Development may be carried out on any land which is shown uncoloured on Map 2 only for a purpose which is permissible on land adjoining that land.

4.23 Activity Strips

Activity Strips indicated on Sheet 1 of Map 2, Sheet 1 (1995 Update) of Map 2 and Sheet 1 (1999 Update) of Map 2 show the principal streets, nodes and locations for pedestrian activity and interest and retail uses.

In these locations, development on the ground floor must provide for non-residential uses, including retail outlets, restaurants, neighbourhood facilities and the like that provide people-orientated street frontages, and enhance security and surveillance compatible with adjoining development.

4.24 Advertising

On land zoned Residential, Residential—Business or Public Recreation, advertisements not related to use of the site are prohibited unless they are displayed on public street furniture, bus shelters, public telephone booths or the like erected by, or on behalf of, a public authority.

4.25 Temporary and interim uses

The consent authority, while land is not being used for a purpose for which it is zoned,

may consent to its use for any other purpose, but only if the consent authority is satisfied that—

- the use will not prejudice the eventual development of the land in accordance with the rest of this Chapter, and
- appropriate arrangements have been made for reinstatement of the site so that it may be used in accordance with the rest of this Chapter, and
- the use will not adversely affect residential amenity and permissible development in accordance with this Chapter on other sites in the locality.

Before granting consent to development as allowed by this section, the consent authority must be satisfied that the development will cease within such time as the consent authority stipulates.

Division 5 Building height and floor space controls

4.26 Maximum building heights

The height of any building must not exceed the maximum building height shown on Map 3. However, any building on land zoned Public Recreation must not exceed 7 metres in height.

Before granting consent for any building that will attain the maximum building height, the consent authority must be satisfied that the building will not only meet such of the urban design requirements made by sections 4.27, 4.28, 4.29 and 4.30 as are relevant, but will also meet any relevant design requirements made by a Master Plan or urban development plan.

4.27 Application of urban design planning principles

Before granting consent to the erection of a building, the consent authority must be satisfied that the building will be consistent with the urban design planning principles for the Precinct in which it will be situated set out in the Table to section 4.13.

4.28 Landmark locations

Sheet 1 of Map 3 shows specific height limits for development in locations referred to on the map as “landmark locations”. The location to which such a limit relates may, with the agreement of the Minister in an adopted master plan, be altered if the consent authority is satisfied that the height of the development in the new location is consistent with the relevant urban design principles.

4.29 Graduated building heights adjacent to heritage items and conservation areas

The height of any building adjacent to a heritage item or conservation area must be such as to provide an appropriate transition in height between the building and either the

heritage item or the buildings within the conservation area.

4.30 Scale and alignment of building facades

Before granting consent to the erection of a building, the consent authority must be satisfied that the scale and alignment of the building facades on the street boundary or boundaries respects the width of the street, adjoining heritage items or other contextual elements, as may be defined in an urban development plan prepared and adopted under Division 7 of this Chapter, or defined in a Master Plan prepared and adopted under Division 8 of this Chapter.

4.31 Floor space limits in Master Plan areas in Ultimo-Pyrmont Precinct

In the Ultimo-Pyrmont Precinct, the ratio of business floor space of a building on land for which a Master Plan is required to the site area must not be greater than 2.5:1 to the north of Pyrmont Bridge Road and 3:1 to the south of Pyrmont Bridge Road.

However, a greater floor space ratio applies if a Master Plan adopted for the site includes a provision made under section 4.55 (relating to flexible uses of land requiring a Master Plan) that allows the greater floor space ratio.

For the purposes of this section, **business floor space** does not include any part of the gross floor area of a building occupied by a centre-based child care facility (within the meaning of the Standard Instrument).

4.32 Floor space limits in non-Master Plan areas in Ultimo-Pyrmont Precinct

In the Ultimo-Pyrmont Precinct, the following maximum floor space ratios apply for land for which a Master Plan is not required.

This section does not allow buildings to exceed maximum heights set by this Chapter.

Maximum building height limit for land on which building is situated	Maximum floor space ratio for residential uses	Maximum floor space ratio for business uses
9m	1.5:1	2.0:1
12m	2.0:1	2.5:1
15m	2.5:1	3.0:1
21m	3.0:1	3.5:1
28m	3.5:1	4.0:1
42m	4.0:1	5.0:1

For a mixed use building used for both business and residential purposes (and no other purposes), the following formula applies to determine the maximum floor space ratio—

Where—

MFSR is the maximum floor space ratio for the mixed use building.

B is the proportion of business floor space to total floor space within the building.

FSRB is the maximum floor space ratio for business uses within the maximum building height zone identified above.

R is the proportion of residential floor space to total floor space within the building.

FRR is the maximum floor space ratio for residential uses within the maximum building height zone identified above.

For the purposes of this section, **business floor space** does not include any part of the gross floor area of a building occupied by a centre-based child care facility (within the meaning of the Standard Instrument) and any such part is taken not to be subject to a business use.

4.33 Floor space limits in Eveleigh Precinct

In the Eveleigh Precinct, the ratio of the business floor space of a building to the site area must not be greater than 1.2:1.

No maximum floor space ratio applies to residential development in the Eveleigh Precinct.

For the purposes of this section, **business floor space** does not include any part of the gross floor area of a building occupied by a centre-based child care facility (within the meaning of the Standard Instrument).

4.34 Application of design and height controls for maximum floor space ratios in non-Master Plan areas

Before granting consent for any building on land for which a Master Plan is not required that will attain the maximum floor space ratio, the consent authority must be satisfied that the building will not only meet such of the urban design requirements made by sections 4.27, 4.29 and 4.30 as are relevant, but will also meet any relevant design requirements made by an urban development plan and not exceed any maximum height set by this Chapter.

However, the consent authority may consent to a building that exceeds a maximum floor space ratio or a maximum building height for the site (or both) if an urban development plan containing detailed urban design controls for the block containing the site has been adopted by the Minister and the building complies with that plan. Before adopting any such urban development plan, the Minister must be satisfied that it will give effect to the relevant urban design requirements made by sections 4.27, 4.29 and 4.30.

4.35 Exceptions to development standards

- (1) The objectives of this section are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subsection (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.
- (6) After determining a development application made pursuant to this section, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

Division 6 Heritage conservation

4.36 Heritage items and conservation areas

Heritage items are identified on Map 4 and described in Schedule 4.

Conservation areas are identified on Map 4.

4.37 General considerations

Development of or including a heritage item, in the vicinity of a heritage item, or within a conservation area, must be compatible with the conservation of the heritage significance of the item or the character of the conservation area.

4.38 Duty of consent authority

Before granting consent to any such development, the consent authority must consider—

- the heritage significance of the heritage item or conservation area, and
- the impact that the proposed development will have on the heritage significance of the heritage item and its setting or the conservation area, and
- the measures proposed to conserve the heritage significance of the heritage item and its setting or the conservation area, and
- whether any archaeological site or potential archaeological site would be adversely affected.

4.39 Conservation management plans and heritage impact statements

The consent authority must decline to grant consent for development relating to a heritage item or conservation area unless it has taken into consideration a conservation

management plan or heritage impact statement which includes an assessment of the matters listed in section 4.38.

4.40 Demolition of heritage items

The consent authority must not grant consent for development which will result in the complete or substantial demolition of a heritage item unless it is satisfied that the item, or so much of the item as is proposed to be demolished, does not have such heritage significance as would warrant its retention.

Before granting such a consent, the consent authority must also be satisfied that, after the demolition work has been carried out, redevelopment will be carried out that will—

- result in buildings of a higher architectural and urban design quality (in terms of the principles and other provisions of this Chapter and of any Master Plan or urban development plan applying to the site) than were exhibited by the heritage item before the work was carried out, and
- make a positive contribution to the streetscape, and
- in the case of partial demolition, enhance the adaptive re-use of the residual part of the heritage item.

Note—

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

4.41 Potential archaeological sites

Before determining an application for consent to development on land identified in an urban development plan as a potential archaeological site, the consent authority may request a report on the likely impact of the development on any archaeological material.

Division 7 Urban development plans

4.42 Use of plans

Before granting consent to development to which an urban development plan applies, the consent authority must take the plan into consideration.

4.43 Content of plans

An urban development plan is a written instrument (which may be supported by diagrams or maps) that makes more detailed provisions relating to development within a Precinct than this Chapter. Any such plan must not be inconsistent with this Chapter.

4.44 Preparation of draft plans

A draft urban development plan or a draft amendment of such a plan may be prepared by the Director-General or by the Council of the area concerned.

4.45 Consultation

Before the Director-General or the Council of the area concerned recommends that the Minister adopt an urban development plan or adopt an amendment of any such plan—

- a draft of the plan or amendment must be advertised, and exhibited for not less than 21 days for public comment, and
- the views of the Council or the Director-General (as the case may require) and of such other public authorities as the person who prepared the draft considers relevant must have been sought on the draft, and
- the person who prepared the draft must take into account any written submission made about the content of the plan or amendment to that person during the exhibition period.

4.46 Adoption of plans and amendments

The Minister may adopt an urban development plan, or an amendment of any such plan, recommended for adoption by the Director-General or the Council, or may adopt such a plan or amendment with such variations as the Minister considers appropriate.

Before adopting a recommended plan or amendment (whether or not in a varied form) the Minister may require that it be re-exhibited to the satisfaction of the Minister.

4.47 Availability of plans

A copy of each urban development plan must be available for inspection at the Head Office of the Department and at the office of the Council of the area concerned during normal business hours.

Division 8 Master Plans

4.48 Requirement for and use of Master Plans

Development consent must not be granted for development that relates to land indicated on Map 5 as requiring a Master Plan unless—

- there is a Master Plan for the land, and
- the consent authority has taken the Master Plan into consideration.

The Minister may waive compliance with this requirement because of the nature of the development concerned, the adequacy of other guidelines that apply to the proposed development or for such other reason as the Minister considers sufficient.

4.49 Content of Master Plans

A Master Plan is a document consisting of written information, maps and diagrams that makes more detailed provisions relating to development of land for which a Master Plan is required than this Chapter. A Master Plan must be generally consistent with this Chapter.

A Master Plan is to outline in broad terms the long-term proposals for the development of land for which a Master Plan is required and to explain how those proposals address the planning principles and development controls in this Chapter.

4.50 Preparation of Master Plans

A draft Master Plan may be prepared by or on behalf of the owner or lessee of the land concerned or by the Director-General.

A draft Master Plan should be prepared following consultation between the owner or lessee and the Director-General and is to illustrate and explain, where appropriate, proposals for the following—

- phasing of development,
- distribution of land uses and, in the Residential-Business Zone, proposals for satisfying the principles of mixed residential and business use and public recreation use,
- pedestrian, cycle and road access and circulation networks,
- parking provision,
- subdivision pattern,
- infrastructure provision,
- building envelopes and built form controls,
- heritage conservation, implementing the guidelines set out in any applicable conservation policy, and protection of archaeological relics,
- decontamination of the site,
- provision of public facilities,
- provision of open space, its function and landscaping,
- any other matters stipulated by the Director-General.

4.51 Consultation

Before the Director-General recommends that the Minister adopt a Master Plan—

- a draft of the plan must be advertised in a newspaper circulating in the locality, and exhibited for not less than 21 days for public comment, and

- the views of the Council of the area concerned and of such other public authorities and such community organisations as the Director-General considers relevant must have been sought on the draft, and
- the Director-General must take into account any written submissions made about the content of the plan to the Director-General during the exhibition period.

4.52 Adoption of Master Plans and amendments

The Minister may adopt a Master Plan, or an amendment of any such plan, recommended for adoption by the Director-General or may adopt such a plan or amendment with such variations as the Minister considers appropriate.

Before adopting a Master Plan or an amendment of a Master Plan, the Minister must take into consideration any development consents that have been granted for the land concerned and, in particular, the gross floor area of buildings on which a business use is allowed by those consents.

When a Master Plan or an amendment is adopted, the Director-General must ensure that the following are notified of its adoption—

- the owner of the land concerned, and
- each public authority and community organisation whose views were sought, and
- each person who made a written submission about the content of the plan or amendment to the Director-General during the exhibition period.

4.53 Amendment of Master Plans

A draft amendment of a Master Plan may be prepared by or on behalf of the owner or lessee of the land concerned, whether or not at the request of the Director-General, or may be prepared by the Director-General.

The Director-General may request the preparation of such a draft amendment for the purpose of keeping the Master Plan up-to-date.

Before recommending that the Minister adopt a draft amendment which the Director-General considers to be significant, the Director-General may arrange for it to be advertised and exhibited as required for a draft Master Plan.

An amendment to a Master Plan may be dealt with concurrently with a development application relating to the amendment.

4.54 Availability of Master Plans

A copy of each Master Plan must be available for inspection at the Head Office of the Department during normal business hours.

4.55 Flexible uses of land requiring a Master Plan

The Minister may consent to the use of part of any land that is subject to a Master Plan for a purpose that is not permitted by the zoning of that part if it will be used for a purpose that another part of the land that is subject to the Master Plan within a different zone may be used.

Before granting such a consent, the Minister must be satisfied that—

- a better distribution of land uses will result, and
- the total of the business floor space of all buildings within the Master Plan area will not be increased as a result of granting the consent, and
- the total of the land available for public recreation areas within the Master Plan area will not be reduced as a result of granting the consent, and
- public access to the entire foreshore in City West will not be reduced as a result of granting the consent.

4.56 Flexible building heights on land requiring a Master Plan

For land that is subject to a Master Plan, the Minister may adopt a Master Plan that identifies maximum building heights that exceed the maximum building height limits shown on Map 3.

The Minister may grant consent to the erection of buildings that exceed the maximum building heights shown on Map 3 but do not exceed the maximum identified on the adopted Master Plan. Before granting such a consent the Minister must be satisfied that the relevant adopted Master Plan has demonstrated that—

- a better pattern of building heights will result, and
- there are reductions in building heights on other sites in the Master Plan, and
- the urban design principles for City West and the Precinct set out in sections 4.8 and 4.13 are achieved, and
- the higher heights do not adversely affect the quality of the adjoining public domain.

Division 8A Prohibited land uses

4.57 Pawnbrokers shops and money lending businesses

The use of any building or place in the Ultimo-Pyrmont Precinct for the purpose of carrying on the business of a pawnbroker or any other moneylender is prohibited.

A pawnbroker is a person who carries on a business of lending money on the security of pawned goods.

This section does not apply to the carrying on, in good faith and in the ordinary course of banking or mercantile transactions, of the business of a bank, building society or credit union.

4.57A Canal estate development prohibited

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—

canal estate development has the same meaning as in the Standard Instrument.

Division 9 Miscellaneous provisions

4.58 Land decontamination

The consent authority must not consent to development on a site or part of a site unless—

- it has taken into consideration whether there is any risk to public health or safety from contamination of the site or part by past industrial use, and
- where such a risk exists on the site or part, it is satisfied that appropriate remediation measures will be undertaken to remove such a risk before development commences on that site or part.

4.59 Removal of sandstone

Removal of sandstone for the provision of car parking or plant or storage associated with future residential or business development is taken to be an ancillary use and not to be extractive industry no matter whether the extracted material is reused or resold.

4.60 Views of other bodies about development in Precincts

- (1) Before granting consent to a development application in relation to land in the Eveleigh Precinct, the consent authority must, if the consent authority considers it appropriate, consult TfNSW.
- (2) Before granting consent to a development application in relation to land in the Bays Precinct, the consent authority must, if the consent authority considers it appropriate, consult TfNSW and the Port Authority of New South Wales.
- (3) The consent authority must consider any submissions received from TfNSW or the Port Authority of New South Wales, as relevant, within 21 days of giving notice of the application to the body.
- (4) In this section—

Port Authority of New South Wales has the same meaning as in the [Ports and Maritime Administration Act 1995](#).

4.61 Views of other bodies about development within Waterways Zone

Before granting consent to a development application relating to land within the Waterways Zone, the consent authority must seek the views of the Maritime Services Board regarding the effect of development on the navigational safety and operations of the Port of Sydney.

The consent authority must consider any views of the Board received within 21 days of giving notice of the application to the Board.

4.62 Acquisition of land

The owner of the land within the Public Recreation Zone may, by notice in writing, require the City West Development Corporation to acquire the land. This section does not apply to land owned by a public authority and held by the public authority for public recreation purposes.

On receipt of the notice, the City West Development Corporation is to acquire the land.

The City West Development Corporation does not, however, have to acquire the land if it might reasonably be required to be dedicated as a condition of development consent.

Part 4.4 Temporary use of land for the purpose of a school at Wentworth Park

4.63 Temporary use of land for the purpose of a school at Wentworth Park

- (1) Despite any other provision of this or any other environmental planning instrument, development is permitted without development consent if the development—
 - (a) is on land identified as “Subject Land” on the *Temporary use of Land for the Purpose of a School at Wentworth Park Map*, and
 - (b) is a temporary use of land for the purpose of a school (within the meaning of the Standard Instrument), and
 - (c) is carried out by or on behalf of a public authority, and
 - (d) does not result in a building with a building height (within the meaning of the Standard Instrument) greater than 12 metres, and
 - (e) does not continue after 31 December 2023.
- (2) Part 3 does not apply to development referred to in subsection (1).
- (3) Division 1 of Part 2 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* applies to development referred to in subsection (1) as if it were development that that Policy provides is development that may be carried out without consent.

- (4) A public authority, or a person acting on behalf of a public authority, must not carry out development referred to in subsection (1) unless the authority or person has—
- (a) given written notice of the intention to carry out the development to TfNSW, and
 - (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.

- (5) In this section—

Standard Instrument means the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

Chapter 5 Walsh Bay

Part 5.1 Preliminary

5.1 Aims, objectives etc

This Chapter aims—

- (a) to allow an appropriate range of uses to encourage the adaptive re-use of existing structures while not required for commercial port uses,
- (b) to identify and protect the heritage significance of the area by establishing a conservation zone and providing appropriate controls for adaptive re-use, demolition and alteration,
- (c) to ensure that development is compatible with the scale and character of existing built structures in the area,
- (d) to control the use of the waterways between the wharves to ensure that any activities associated with any development are compatible with the commercial shipping and navigational requirements in Sydney Harbour,
- (e) to identify a consent authority for development approvals,
- (f) to identify matters to be considered when determining development applications,
- (g) to ensure the provision of public access to the waterfront, including the wharves, and
- (h) to ensure that development—
 - (i) provides appropriate parking facilities and traffic management which minimises impact on the amenity of the area, adjoining residential areas and the Sydney Cove Redevelopment Area,
 - (ii) does not adversely affect the arterial road network in the City of Sydney,
 - (iii) preserves views to and from Sydney Harbour,

- (iv) is compatible with the adjacent existing residential community, and
- (v) provides a public transport system which can be integrated with the existing public transport services in the City of Sydney.

5.2 Land to which Chapter applies

This land applies to land within the City of Sydney and land within Sydney Harbour as shown edged heavy black on the map.

5.3 Definitions

In this Chapter—

aids to navigation means buoys, signs, lights or other structures located on the waterway or on land which are designed to assist the safe and efficient movement of vessels on the waterway.

alter, in relation to a building or work within the Walsh Bay Conservation Zone, means—

- (a) the making of structural changes to the building or work, or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance or the building or work, not including the maintenance of the existing detail, fabric, finish or appearance of the outside of the building or work.

commercial premises means a building or place used as an office or for other business or commercial purposes, except—

- (a) a building or place elsewhere specifically defined (or used for a purpose elsewhere specifically defined) in this section or in clause 4 of the *Environmental Planning and Assessment Model Provisions 1980*, or
- (b) a building or place used for the purpose of parking vehicles for fee or reward.

demolition, in relation to a building or work within the Walsh Bay Conservation Zone means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part.

development has the same meaning as in section 4 of the Act, and includes clearing of vegetation, cultivation, filling, excavation and dredging.

dredging means removal of material from the sea or harbour bed or the bed of a river by a dredge where the activity is part of the construction of a new or deeper navigational area or channel or re-opening of a discontinued navigational area or channel, but does not include maintenance dredging.

floating restaurants or entertainment facilities means any floating structure on the waterway used as a restaurant or for commercial entertainment, but does not include a

boat or other vessel.

flora and fauna enclosure means a net or other structure used for the purpose of protecting or encouraging the growth of flora and fauna, including structures used for the observation of flora and fauna and the maintenance of any such structure.

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

marina means a boat storage facility located on the waterway together with any maintenance, slipway or refuelling facilities on an adjoining area of land or the waterway.

mean high water mark means a height of 1.44 metres above the Zero of Fort Denison tide gauge.

mooring facilities means a single structure or series of buoys or other structures located in the waterway for the mooring or storage of vessels and which does not have maintenance, slipway or refuelling facilities on nearby land or a wharf but which has direct structural connection between a wharf and the waterway.

relic means any deposit, object or material evidence relating to the settlement (including aboriginal habitation) of the area covered by the plan which is 50 or more years old.

Sydney Region means the Sydney Region declared under section 4 (6) of the Act to be a region for the purposes of the Act.

TfNSW means Transport for NSW constituted under the [Transport Administration Act 1988](#).

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

the map means the map marked [Sydney Regional Environmental Plan No 16—Walsh Bay](#) deposited in the office of the Department of Planning.

the waterway means that part of Sydney Harbour to which this Chapter applies which is within Zone 2.

zone means land shown on the map in some distinctive manner for the purpose of indicating the restrictions imposed by this Chapter on the development of the land.

5.4 Adoption of Model Provisions

The [Environmental Planning and Assessment Model Provisions 1980](#) (except the definitions of **commercial premises**, **tourist facilities** and **transport terminal** in clause 4 (1)) are adopted for the purposes of this Chapter and any reference in those provision to a local environmental plan shall, for the purposes of this Chapter, be read as a reference to a regional environmental plan.

5.5 Suspension of laws

- (1) For the purpose of enabling development to be carried out in accordance with this Chapter (as in force at the time the development is carried out) or in accordance with a consent granted under the Act in relation to development carried out in accordance with this Chapter (as so in force), section 33, of the *Sydney Harbour Trust Act 1901*, to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Nothing in this section excludes the application of section 33 of the *Sydney Harbour Trust Act 1901* otherwise than in respect of the obtaining of development consent in accordance with this Chapter.
- (3) Pursuant to section 28 of the Act, before the making of this section—
 - (a) the Minister for the time being administering the provision of the *Sydney Harbour Trust Act 1901* referred to in subsection (1) concurred in writing in the recommendation for the approval of the Governor of subsection (1), and
 - (b) the Governor approved of subsection (1).

5.6 Consent authority

The Council of the City of Sydney is the consent authority for the purposes of this Chapter, except as provided by the Act or the [City of Sydney Act 1988](#).

Part 5.2 General restrictions on development of land

5.7 Zones indicated on the map

For the purposes of this Chapter, land to which this Chapter applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone—

Zone 1—Walsh Bay Conservation Zone—edged black and marked Zone 1.

Zone 2—Walsh Bay Waterway Zone—edged black and marked Zone 2.

5.8 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this section under the heading “Objective of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this Chapter, in relation to land within a zone specified in the Table to this section, the purposes (if any) for which—
 - (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent, and
 - (c) development is prohibited,

are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.

- (3) Except as otherwise provided by this Chapter, the consent authority shall not grant consent to an application to carry out development on land to which this Chapter applies unless it is of the opinion that the carrying out of the development is generally consistent with the aims of this Chapter and the objectives of the zone within which the development is proposed to be carried out.

Table

Zone 1 Walsh Bay Conservation Zone

1 Objectives of zone

The objectives of this zone are—

- (a) to allow an appropriate range of uses to encourage the adaptive re-use of existing structures while not required for commercial port uses,
- (b) to ensure that development is consistent with the heritage significance, the scale, the built form and the materials of existing structures in the zone and adjoining areas,
- (c) to ensure that development is compatible with and does not detract from the financial, commercial and retail functions of the existing city central business district and the Sydney Cove Redevelopment Area, and
- (d) to ensure that development is compatible with and does not adversely impact on the residential amenity and function of the adjoining areas.

2 Without development consent

Nil.

3 Only with development consent

Any purpose other than a purpose included in item 2 or 4.

4 Prohibited

Bus depots, bus stations, car repair stations, gas holders, generating works, helipads, heliports, industries (other than home industries and light industries), institutions, junk yards, liquid fuel depots, marinas, mines, roadside stalls, road transport terminals, sawmills.

Zone 2 Walsh Bay Waterway Zone

1 Objectives of zone

The objectives of this zone are—

- (a) to control the use of the waterway between the wharves to ensure that any activities associated with any development are compatible with the commercial shipping and navigational requirements in Sydney Harbour,
- (b) to ensure that the Harbour and Harbour foreshore is recognised as a community asset, and
- (c) to limit mooring facilities for private vessels used by the lessees and tenants of property in Zone 1.

2 Without development consent

Aids to navigation, maintenance dredging, maintenance of mooring facilities, mooring of vessels owned by TfNSW.

3 Only with development consent

Boating or waterway access stairs, dredging, emergency vehicle accessways, floating restaurants or entertainment facilities, flora and fauna enclosures, mooring facilities, mooring of fishing and charter vessels, pontoons, public walkways, utility installations (other than gas holders and generating works).

4 Prohibited

Any purpose other than a purpose included in item 2 or 3.

5.9 Exceptions to development standards

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

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

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

section.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.
- (6) After determining a development application made pursuant to this section, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated.

5.10 Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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.

5.10A Canal estate development prohibited

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—

canal estate development has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

Part 5.3 Special provisions

5.11 Walsh Bay Conservation Zone

- (1) A person shall not, in respect of the Walsh Bay Conservation Zone—
 - (a) demolish or alter a building or work within the Zone,
 - (b) damage or move a relic, including excavation for the purpose of exposing or removing a relic, within the Zone,
 - (c) damage or despoil a place within the Zone,
 - (d) erect a building on or subdivide land within the Zone, or
 - (e) damage any tree within the Zone,except with the consent of the consent authority.
- (2) The consent authority shall not grant consent to an application under subsection (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the Walsh Bay Conservation Zone.

5.12 Advertising of applications

- (1) Except as provided by subsection (2), the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of—
 - (a) the demolition of a building or work within the Walsh Bay Conservation Zone, and
 - (b) development for any purpose,in the same way as those provisions apply to and in respect of designated development.
- (2) Subsection (1) does not apply to—
 - (a) the partial demolition of a building or work within the Walsh Bay Conservation Zone if, in the opinion of the consent authority the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the building or work, or
 - (b) development which in the opinion of the consent authority, is of a minor nature and is consistent with the heritage significance of any building or work within the Walsh Bay Conservation Zone.

5.13 Development control code

- (1) If the consent authority considers it necessary or desirable to provide more detailed

provisions than are contained in this Chapter in respect of a part or parts of the land to which this Chapter applies, the consent authority may, in accordance with this section, prepare or cause to be prepared a development control code.

- (2) The format, structure, subject-matter and procedures for the preparation, public exhibition, approval, amendment and repeal of a development control code shall be in accordance with the provisions of Part 3 of the *Environmental Planning and Assessment Regulation 1980* which shall be read as if—
 - (a) a reference to a development control plan were a reference to a development control code,
 - (b) the reference to a local environmental plan were a reference to this Chapter, and
 - (c) a reference to the council were a reference to the consent authority.
- (3) A development control code shall promote the general and specific aims of this Chapter, and shall generally conform to the provisions of this Chapter.
- (4) A development control code shall be available for public inspection, without charge, at the offices of the Department of Planning and the Council of the City of Sydney during ordinary office hours.
- (5) The consent authority shall not grant consent to an application to carry out development on land to which this Chapter applies to which a development control code applies unless it has taken provisions of the code into consideration.

5.14 Matters for consideration

In determining a development application, the consent authority shall take into consideration—

- (a) any conditions imposed by the Heritage Council under section 63 of the *Heritage Act 1977*,
- (b) in relation to any development within Zone 2, the requirements of TfNSW concerning the impact of the development on commercial shipping, recreational boating and navigational issues on Sydney Harbour,
- (c) the “Walsh Bay Redevelopment Conservation Guidelines dated February 1988” prepared for the Maritime Services Board and appended to the “Walsh Bay Regional Environmental Study 1989”,
- (d) Any urban design guidelines designated as such and prepared by or on behalf of the consent authority in relation to land to which this Chapter applies and current on the date the development application is made,
- (e) the “Walsh Bay Regional Environmental Study 1989” prepared by the Director of

Planning and held in the Department of Planning,

- (f) the “Central Sydney Strategy 1988” published jointly by the Council of the City of Sydney and the Department of Planning,
- (g) the adequacy of public access to the wharf aprons and to the foreshore,
- (h) where the development is or provides a public transport facility, whether that facility integrates with existing public transport services in the City of Sydney and provides an adequate level of service,
- (i) whether the development affects the continued use of wharf No 4 or 5 as a theatre complex and certain sites for TfNSW purposes,
- (j) any plan which indicates the location of, or likely location of, any archaeological material prepared by the Heritage Council, and
- (k) whether the development generates traffic which adversely impacts on the amenity of the area, adjoining residential areas and the Sydney Cove Redevelopment Area.

5.15 Commercial premises

- (1) This section applies to land within Zone 1.
- (2) The consent authority may grant consent to an application to develop land for the purposes of commercial premises if—
 - (a) the development would result in a floor area used for the purposes of commercial premises in Zone 1 not greater than 30 per cent of the total floor area used for any purpose within that Zone at that time, and
 - (b) in the opinion of the consent authority, the impact of traffic likely to be generated by the development does not have a significant adverse impact on the local and arterial road network.

5.16 Designated development

For the purposes of this Chapter, mooring facilities are designated development.

5.17 Preliminary development and temporary uses of land

Regardless of any other provision of this Chapter, the consent authority may grant consent for the carrying out of—

- (a) any temporary development within Zone 2 that does not involve the erection of permanent structures or carrying out of works of a permanent nature, and the purpose of which is to facilitate the carrying out of any other development that may be carried out on land within or adjacent to Zone 2 with or without development consent, or

- (b) any development, other than designated development, within Zone 1 or 2, if it is carried out for a period of not more than 28 days (whether consecutive or non-consecutive) in any one year.

Chapter 6 Cooks Cove

Part 6.1 Preliminary

6.1 Aims of Chapter

This Chapter aims—

- (a) to establish planning principles for the development of land that promote the ecologically sustainable use of the Cooks Cove site, and
- (b) to rezone land at Cooks Cove to encourage trade and technology uses, and to attract global-reach businesses which strengthen Sydney's international competitiveness, and
- (c) to capitalise on the physical proximity of the Cooks Cove site to Sydney International Airport and Port Botany to create trade-focussed development, and
- (d) to facilitate master planning strategies that will promote the orderly development of public open space and trade and technology land uses, and
- (e) to identify appropriate development form and capacity for the Cooks Cove site, and
- (f) to provide open space for a range of recreational uses, and
- (g) to provide for good public access through the Cooks Cove site and along the Cooks River foreshores, and
- (h) to enhance the Botany Bay to Homebush Bay regional cycleway and pedestrian/cycle network, and
- (i) to protect environmentally significant wetlands and the habitat of the endangered Green and Golden Bell Frog, and
- (j) to establish vegetated riparian areas along the Cooks River and Muddy Creek foreshores, and
- (k) to provide vegetated riparian buffers around the Marsh Street, Eve Street, Spring Creek and Landing Lights wetlands.

6.2 Land to which Chapter applies

This Chapter applies to land at Cooks Cove within the suburb of Arncliffe shown edged heavy black on the [Zoning Map](#), which is referred to in this Chapter as ***the Cooks Cove site***.

6.3 Relationship to other environmental planning instruments

- (1) In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before, on or after the date on which this Chapter was made, this Chapter prevails to the extent of the inconsistency, subject to section 36 (4) of the Act.
- (2) To remove any doubt, this Chapter does not affect the application of *State Environmental Planning Policy No 55—Remediation of Land* to land within the Cooks Cove site.

6.4 Consent authority

Rockdale City Council is the consent authority for the purposes of this Chapter, except as provided otherwise by the Act.

6.5 Definitions

- (1) Certain terms used in this Chapter are defined in the Dictionary at the end of this Chapter.
- (2) The list of contents and notes in this Chapter do not form part of this Chapter.

6.6 Complying and exempt development

- (1) Development listed in Schedule 1 is complying development if—
 - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
 - (b) it is not an existing use as defined in section 106 of the Act.
- (2) Development of minimal environmental impact listed in Schedule 2 is exempt development, despite any other provision of this Chapter but subject to section 76 (3) (a) of the Act.
- (3) Development is complying or exempt development only if it complies with the development standards and other requirements applied to the development in Schedules 1 and 2, respectively.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Part 2 of Schedule 1.

6.7 Adoption of model provisions

- (1) This Chapter adopts the *Environmental Planning and Assessment Model Provisions 1980*, except for Part 2 (Definitions) of those provisions.
- (2) For that purpose, references in those provisions to the local environmental plan

adopting them are taken to be references to this Chapter.

6.8 Savings and transitional provisions

Local environmental plans and deemed environmental planning instruments (including *Rockdale Local Environmental Plan 2000*) apply to development applications lodged but not finally determined before the commencement of this Chapter as if this Chapter had been exhibited but had not been made.

Part 6.2 Planning principles

6.9 Planning principles for Cooks Cove

Before granting consent to a development application relating to land within the Cooks Cove site, the consent authority must take into consideration the aims of this Chapter and also be satisfied that the proposed development will be consistent with such of the following planning principles as are relevant to the proposed development—

(a) Role and land use activities

Development should be carried out in a manner consistent with the principles of ecologically sustainable development.

Development of the Cooks Cove site is to encourage advanced technology and trade-focussed businesses that benefit directly from, or benefit from a synergy due to, the physical proximity of Cooks Cove to Sydney Airport and Port Botany, and the excellent transport network links to Sydney's CBD and the Advanced Technology Park at Eveleigh.

Transport management planning for the Cooks Cove site should optimise the use of public transport infrastructure, including a regular connection to both the adjacent railway stations at Wollie Creek and Sydney Airport International Terminal.

A vibrant community and safe public domain are to be created through encouraging active frontages along main streets and pedestrian routes.

(b) Built form

Building heights and building envelopes are to reflect good urban design principles and the natural attributes of Cooks Cove. Building heights should allow a reasonable sharing of views from buildings, with lower buildings at the foreshore.

Buildings adjacent to the east-west runway approach paths should not interfere with the operation of Sydney Airport.

The height, form and orientation of buildings are to take into account visual impact from both land and water, as well as solar access, ventilation, wind impact, the amenity and privacy of hotel occupants and the need to conserve the habitat of

threatened fauna.

The design of development should promote the public domain with a high quality of amenity and follow design practices that encourage energy conservation and the promotion of public transport.

Development is to provide for a high quality of landscaping and plantings of flora that are endemic to the area or that promote the regeneration of native species.

The depth of excavation for new development should minimise the disturbance of acid sulfate soils.

(c) Public domain

Foreshore, significant wetland areas and Green and Golden Bell Frog habitat areas are to be set aside for the maintenance and protection of wetland vegetation, mangrove communities and threatened fauna, with limited public access.

The foreshore is to be publicly accessible, and linked to public areas within and adjoining the Cooks Cove site.

Coordinated pedestrian and cycling networks and public transport services, which link into the regional Bay-to-Bay cycleway are to be provided throughout the Cooks Cove site. Networks are to link with the railway stations, areas adjoining the Cooks Cove site and the foreshore.

(d) Accessibility, movement and parking

Transport and traffic should be managed in accordance with a comprehensive plan that provides for the coordinated provision of public transport services and the staging of its provision.

Appropriate urban form, public transport infrastructure and services are to be provided that increase the use of public transport.

Development should accommodate users of all modes of transport, including public transport, cycling and walking.

The provision for vehicular movement is to be consistent with the development of a high-quality pedestrian environment within the street system.

A high degree of accessibility is to be provided to places within the Cooks Cove site for both able and disabled persons.

The provision of permanent and temporary parking facilities should be weighted to discourage use of cars and to encourage use of public transport.

(e) Ecological and heritage issues

Development within the Cooks Cove site is to make a significant contribution to ecological sustainability through promoting effective utilisation of public transport, reduced energy requirements, and the conservation and enhancement of natural resources.

Water and energy-efficient design criteria are to be promoted and soil erosion and sedimentation control measures implemented during remediation and construction phases.

Riparian areas with estuarine and native vegetation are to be established and maintained for the protection and enhancement of the Cooks River estuary and remaining natural areas.

Development should not have adverse impacts on the water quality of the Cooks River, Muddy Creek or wetlands.

The significant wetlands within the Cooks Cove site and along the foreshores of Cooks Cove are to be conserved, and the strategy for conservation is to include—

- (i) establishing adequate vegetated riparian buffers around the significant wetlands, including the Spring Street, Eve Street and Landing Lights wetlands, and
- (ii) establishing adequate vegetated corridors between Cooks River and Muddy Creek and the wetlands, and
- (iii) promoting the on-site recovery of the Green and Golden Bell Frog.

Conservation of the market garden within the Cooks Cove site is to be promoted.

Part 6.3 General land use controls

6.10 Land use zones and explanation

- (1) Land within the Cooks Cove site is within one of the following zones as shown on the [Zoning Map](#)—
 - Trade and Technology Zone
 - Special Uses Zone
 - Open Space Zone
- (2) The following Table shows, for land within a zone—
 - (a) the objectives of the zone, and
 - (b) the development that may be carried out without development consent, and
 - (c) the development that may be carried out only with development consent, and

(d) the development that is prohibited.

- (3) Consent may be granted for development within a zone only if the consent authority is satisfied that the proposed development will achieve one or more of the stated objectives of the zone that are relevant to the proposed development.

Table

Trade and Technology Zone

1 Objectives

The objectives of this zone are—

- (a) to encourage economic activity and trade-focussed businesses that benefit directly from, or benefit from a synergy due to, the physical proximity of land within the zone to Sydney Airport and Port Botany, and the excellent transport network links to Sydney’s CBD and the Advanced Technology Park at Eveleigh, and
- (b) to promote the establishment of enterprises that create advanced technology or that manufacture products that utilise advanced technology, and
- (c) to promote export and other trade-related enterprises that are associated with trade logistics and distribution, just-in-time supply, the movement of perishables, time-sensitive goods processing, and the management of air and sea commerce, and
- (d) to provide facilities for the workforce by allowing a limited range of ancillary, retail and recreational uses that are ancillary and provide support to the dominant functions within the zone.

2 Development that is allowed

Exempt development and development for the purpose of the following may be carried out **without development consent**—

landscape maintenance works (including tree planting, repaving and replacement of street furniture); public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

advanced technology businesses; aids to navigation; car parks and car parking stations (if their only use is ordinarily incidental to other uses

allowed within the zone); centre-based child care facilities; clubs; commercial support premises; community facilities; drainage; educational establishments; hotels; light industries; medical centres; motels; offices ancillary to trade-related enterprises; open space; passenger transport terminals; public transport infrastructure (not including car parks or car parking stations); recreation areas; recreation facilities; remediation of land; restaurants; roads; service stations; serviced apartments; shops; tourist facilities; trade-related enterprises; vehicle rental centres; warehouses.

3 Prohibited development

Any development not listed in item 2.

Special Uses Zone

1 Objectives

The objectives of this zone are—

- (a) to accommodate existing special uses, including the South West Sydney Ocean Outfall Sewer and M5 corridor, and
- (b) to provide for the development of a transport corridor by the Roads and Traffic Authority or for other public transport infrastructure.

2 Development that is allowed

Exempt development and development for the purpose of the following may be carried out **without development consent**—

aids to navigation; public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

drainage; public transport infrastructure; recreation areas; remediation of land; roads.

3 Prohibited development

Any development not listed in item 2.

Open Space Zone

1 Objectives

The objectives of this zone are—

- (a) to provide for active sporting and recreational land uses and club facilities, and
- (b) to provide public access along the Cooks River and Muddy Creek foreshores, and
- (c) to protect significant wetland areas within the Cooks Cove site and along the Cooks River foreshores, and
- (d) to provide for facilities that are ancillary to the recreational use of public open space, and
- (e) to provide vegetated riparian areas to enhance biological connectivity along the Cooks River and Muddy Creek foreshores,
- (f) to protect and enhance the habitat of the Green and Golden Bell Frog established within Cooks Cove.

2 Development that is allowed

Exempt development and development for the purpose of the following may be carried out **without development consent**—

aids to navigation; gardening; landscape maintenance works (including tree planting, repaving and replacement of street furniture); other maintenance works; public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

artworks; boat landing and hire facilities; boat ramps and berths; car parks; clubs; community facilities; drainage; identifying or interpretive signage ancillary to another use allowed on the site; kiosks; landscaping (except landscape maintenance works); outdoor eating areas (if linked to kiosks within the zone or restaurants in adjoining zones); recreation areas; recreation facilities; remediation of land; roads; other land uses incidental or ancillary to the land uses lawfully carried out within the zone at the commencement of this Chapter.

3 Prohibited development

Any development not listed in item 2.

Part 6.4 Special provisions

6.11 Subdivision and demolition

- (1) Land within the Cooks Cove site may be subdivided, but only with development consent.
- (2) Buildings or works on land within the Cooks Cove site may be demolished, but only with development consent.

6.12 Infrastructure provision

- (1) Consent must not be granted to development of land within the Cooks Cove site until the Planning Secretary has approved a comprehensive transport management plan after being satisfied TfNSW has agreed to the strategies of the management plan.
- (2) The strategies of the transport management plan are to be aimed at—
 - (a) optimising the public transport mode split for people who will visit or work on, or otherwise use, the Cooks Cove site, and
 - (b) providing for an adequate public bus service for people who will visit or work on, or otherwise use, the Cooks Cove site, and
 - (c) establishing roads and related infrastructure of a standard adequate to provide public and private vehicular transport access to, and egress from, the Cooks Cove site from and to other land within the region, and
 - (d) providing temporary and permanent parking facilities that are timed and number-weighted to discourage use of cars and to encourage the shift to use of public transport.
- (3) Before approving the transport management plan, the Planning Secretary must take into consideration the views of—
 - (a) TfNSW, and
 - (b) any other public authority that the Planning Secretary considers relevant.

- (4) In this section—

TfNSW means Transport for NSW constituted under the [Transport Administration Act 1988](#).

6.13 Master plan

- (1) **Requirement for master plan** Consent must not be granted for development of land within the Cooks Cove site unless—
 - (a) there is a master plan for the land that has been adopted by the Minister, and
 - (b) the consent authority has taken the master plan into consideration.
- (2) **Scope of master plans** A draft master plan should be prepared for the whole of the Cooks Cove site in consultation with the Planning Secretary.
- (3) Despite subsection (2), a master plan for land within the Trade and Technology Zone may be prepared separately from a master plan for the remainder of the Cooks Cove site.
- (4) **Content of master plan** A draft master plan should illustrate and explain such of the following as are relevant to the land to which it applies—
 - (a) appropriate design principles, drawn from an analysis of the land to which the draft plan applies and its context,
 - (b) an indicative phasing of development,
 - (c) a proposed distribution of land uses,
 - (d) if it relates to land within the Trade and Technology Zone, proposals for satisfying the principles of good urban design in setting building envelopes, building heights and built form controls,
 - (e) appropriate height limits for development adjacent to Sydney Airport,
 - (f) if it relates to land within the Open Space Zone, a golf course layout plan, showing proposed locations for golf course fairways and player travel paths in relation to the wetlands and market gardens,
 - (g) a landscape concept plan, showing proposed public access paths through the site and along the foreshores,
 - (h) a proposed transport management plan, outlining a proposed timetable for infrastructure provision and servicing arrangements,
 - (i) proposals for pedestrian, cycle and road access and circulation networks,
 - (j) proposed public transport routes and bus stop provision,
 - (k) proposed parking provision,
 - (l) a proposed subdivision pattern,

- (m) proposed infrastructure provision,
 - (n) proposals for conservation, including an explanation of how any relevant guidelines or recommendations set out in a conservation management plan or statement of heritage impact approved by the Heritage Council of New South Wales may be implemented,
 - (o) proposals for the decontamination and remediation of sites,
 - (p) proposals for the provision of public facilities,
 - (q) recommendations for the provision of open space, its function and landscaping,
 - (r) any other matters stipulated by the Planning Secretary.
- (5) **Adoption of master plan** A master plan is adopted by completing the following steps—
- (a) A draft master plan is to be submitted to the Planning Secretary who must arrange for it to be publicly exhibited for comment.
 - (b) Before recommending that the Minister adopt or reject a draft master plan, the Planning Secretary must take into consideration the appropriateness of the draft master plan's strategies, whether it complies with subsection (4), and any written submissions made about it to the Planning Secretary during the period of its public exhibition.
 - (c) The Planning Secretary may recommend that a draft master plan be adopted by the Minister without variations or that it be adopted with such variations as the Planning Secretary considers appropriate.
 - (d) The Minister must seek the views of the Council about the draft master plan before the Minister adopts or rejects it.
 - (e) A draft master plan becomes a master plan when the Minister adopts it.
- (6) When a master plan is adopted, the Planning Secretary must ensure that the following are notified of its adoption—
- (a) the owner of the land concerned,
 - (b) each public authority and community organisation whose views were sought,
 - (c) each person who made a written submission about the plan to the Planning Secretary during the exhibition period.
- (7) **Amendment or repeal of master plan** The following provisions apply to amendment or repeal of a master plan—
- (a) An adopted master plan may be amended or repealed by a subsequent master

plan adopted by the Minister in accordance with this section.

- (b) Before adopting an amending master plan, the Minister must take into consideration any development consents that have been granted for the land concerned and, in particular, the gross floor area of buildings on which a trade or technology use is allowed by those consents.

6.14 Floor area controls

- (1) Consent must not be granted for development of land within the Trade and Technology Zone that would result in the following—
 - (a) a total of more than of 270,000 square metres of gross floor area (whether in one or more buildings) being created within that zone,
 - (b) a total of more than 5,000 square metres of leasable floor space within that zone (whether in one or more buildings, but excluding public access areas such as arcades and amenities, general loading docks and car parking areas) being used exclusively for the purpose of commercial support premises, shops and restaurants,
 - (c) a total of more than 15,000 square metres of leasable floor space within that zone (whether in one or more buildings, but excluding public access areas such as arcades and amenities, general loading docks and car parking areas) being used exclusively for the purpose of hotels or serviced apartments,
 - (d) a total of more than 5,000 square metres of leasable floor space within that zone (whether in one or more buildings) being used exclusively for the purpose of serviced offices, being offices the use of which is not ancillary to another lawful land use and that are hired on a casual basis.
- (2) Consent must not be granted for development of land within the Trade and Technology Zone that would result in—
 - (a) less than one quarter of the total gross floor area within that zone being developed for the purpose of trade-related enterprises, or
 - (b) less than one quarter of the total gross floor area within that zone being developed for the purpose of advanced technology businesses.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a requirement made by subsection (1) or (2).

6.15 Height of buildings

- (1) A building within the Cooks Cove site must not exceed 6 storeys.
- (2) However—

- (a) a building within 120 metres of the Cooks River must not exceed 5 storeys, and
 - (b) subject to paragraph (a), one building on land within the Trade and Technology Zone that is situated no closer than 10 metres from the zone boundary may have a height that does not exceed 11 storeys.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a requirement made by subsection (1) or (2).

6.16 Environmental management—management plans

- (1) Consent must not be granted for any development on land within the Cooks Cove site until after the consent authority has taken into consideration—
- (a) a wetlands environmental management plan that has been served on the Planning Secretary and Secretary of the Department of Agriculture, Water and the Environment of the Commonwealth and any written comments made to the consent authority about that plan by any of those persons within 40 days after the date of service on the person, and
 - (b) a soil and water management plan that has been served on the same persons and any written comments made to the consent authority about that plan by any of those persons within 40 days after the date of service on the person, and
 - (c) a Green and Golden Bell Frog management plan that has been served on the Planning Secretary, which identifies areas of its habitat and outlines proposals for mechanisms to be introduced to create, enhance and manage habitat areas for the species, and any written comments made to the consent authority about that plan by the Planning Secretary within 40 days after the date of service.
- (2) In addition, consent must not be granted for any development on land within the Cooks Cove site until after the wetlands environmental management plan and the soil and water management plan—
- (a) have been publicly exhibited with a request for comments within a specified time, and
 - (b) the consent authority has taken into consideration any written comments made to the consent authority about those plans during that specified time.
- (3) The wetlands environmental management plan must include a description of the location of existing and proposed wetlands, including areas considered to be significant, and proposals about the following—
- (a) implementation of wetlands environmental management principles,
 - (b) protection of threatened species, populations and ecological communities,

- (c) protection of aquatic and fish nursery habitats,
 - (d) protection of migrating bird populations and their habitats,
 - (e) the interrelationship of the golf course and any buffer or treatment required to prevent or reduce run-off and nutrient loads from the fairways entering the wetlands,
 - (f) the impact of the proposed development on tidal flows inundating the wetlands,
 - (g) the impact of the development on the ecological significance of the Cooks River and Muddy Creek and the wetlands within the site,
 - (h) measures to minimise adverse environmental impacts of development, including the provision of—
 - (i) compensatory wetland habitats, and
 - (ii) vegetated riparian buffers around wetlands to mitigate the impact of human disturbance on native fauna, and
 - (iii) vegetated riparian buffers around wetlands to enhance appropriate terrestrial habitat,
 - (i) establishment in riparian areas of appropriate local native plant species propagated, where possible, from locally genetic stock.
- (4) The soil and water management plan must address the following—
- (a) the likely impacts of development on water quality during and after construction,
 - (b) the utilisation of effective erosion and sediment control measures in accordance with the State government guidelines entitled *Managing urban stormwater: soils and construction* (Department of Housing, 3rd ed., 1998) and consistently with any relevant industry standards, especially in relation to the golf course construction and operation,
 - (c) the recommendations of the Green and Golden Bell Frog management plan and the wetlands environmental management plan.
- (5) The Green and Golden Bell Frog management plan must identify the location of existing and proposed Green and Golden Bell Frog habitats, including areas considered to be significant, and include proposals covering the following—
- (a) protection of the Green and Golden Bell Frog,
 - (b) protection of the Green and Golden Bell Frog habitat,
 - (c) how existing and proposed wetlands relate to protection of the Green and Golden

Bell Frog and its habitat,

- (d) how stormwater management processes relate to protection of the Green and Golden Bell Frog and its habitat,
- (e) how development and management of the golf course and open space areas, management of public access and proposed development within the Trade and Technology Zone relate to protection of the Green and Golden Bell Frog and its habitat,
- (f) management of the direct and indirect impacts of the proposed development on the protection of the Green and Golden Bell Frog and its habitat,
- (g) measures to mitigate adverse environmental impacts of the proposed development, including habitat enhancement and the provision of compensatory habitat for the Green and Golden Bell Frog,
- (h) measures to appropriately manage habitat areas in both the short and long term.

6.17 Environmental management—special requirements

Before granting consent to proposed development, the consent authority must, to the extent (if any) to which the following are relevant to the proposed development, be satisfied that—

- (a) use of the Cooks Cove site will incorporate stormwater management measures that will result in an overall improvement to the quality of water entering Muddy Creek and the Cooks River from the Cooks Cove site, especially in relation to the golf course construction and operation, and
- (b) water usage on, and the importation of potable water on to, the Cooks Cove site will be minimised, especially in relation to the golf course operations. (The consent authority is to prefer the use of recycled or non-potable sources for golf course watering.), and
- (c) proposed development is designed and carried out so as to ensure that there will be minimal impact on the water table level and that adverse salinity impacts will not result, and
- (d) drainage lines within the Open Space Zone will be constructed and vegetated so that they approximate as natural a state as possible (If the proposed development involves modification of existing drainage lines to accommodate increased stormwater run-off from urban areas, this should be done in a manner that maximises the conservation of indigenous flora in and around the drainage lines.), and
- (e) the proposed development will be carried out in a manner that minimises flood risk to both people and property, but has due regard to environmental considerations, and

- (f) changes in local flow regimes due to development will be minimised, and
- (g) gross pollutant traps will be planned as components of a comprehensive stormwater treatment plan, will be located outside the riparian areas, and will treat water prior to its discharge into riparian areas and watercourses so as to arrest sediment and litter, so that there is no increase in sediment and litter entering the Cooks River or Muddy Creek as a result of development.

6.18 Development of flood prone land

- (1) This section applies to land in the vicinity of the Cooks River and Muddy Creek defined as ***flood prone land*** in the latest appropriate study adopted by the consent authority for the purposes of this section.
- (2) Before granting consent for development of land to which this section applies, the consent authority must consider—
 - (a) the impact of the proposed development on flood flows and whether any compensatory works should be provided, and
 - (b) if land filling is involved, whether any compensatory flood storage or other flood mitigation works should be provided, and
 - (c) the impact of the development on the ecological significance of the Cooks River and Muddy Creek and their wetlands and measures that can minimise any adverse impact, such as the provision of compensatory wetland habitats.

6.19 Management of open space

Prior to the granting of consent for any development within the Open Space Zone, the consent authority must consider a plan of management prepared under the provisions of the [Crown Land Management Act 2016](#) for all land zoned Open Space or proposed to be accessible to the public within the Cooks Cove site.

6.20 Development of land near Sydney Airport runways

Consent must not be granted to any proposed development on land within the Cooks Cove site if it is of a kind regulated by the Commonwealth [Civil Aviation \(Buildings Control\) Regulations 1988](#) or [Airports \(Protection of Airspace\) Regulations 1996](#) unless a copy of the development application has been referred to Sydney Airports Corporation Limited.

6.21 Heritage protection

- (1) Heritage items are identified in Schedule 3.
- (2) Consent must not be granted for development of, or in the vicinity of, a heritage item unless the consent authority has made an assessment of—

- (a) the effect the carrying out of that development will have on the heritage significance of the item and its setting, and
 - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, archaeological, architectural, natural or aesthetic significance of the item and its site, and
 - (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained.
- (3) A person must not, in respect of a building, place, work or relic that is a heritage item—
- (a) demolish, alter, renovate or extend the item, or
 - (b) damage or despoil the item or any part of the item, or
 - (c) excavate any land for the purpose of exposing or removing the item, or
 - (d) erect a building on the land on which the building, work or relic is situated or the land that comprises the place, or
 - (e) subdivide the land on which the building, work or relic is situated or the land that comprises the place,
- except with the consent of the consent authority.
- (4) The consent authority may grant consent to development involving the excavation or filling of land, or the erection (involving disturbance of land) or demolition of buildings on land, where the land is the site of a heritage item that is of non-Aboriginal heritage significance, only if it has considered a statement of heritage impact or a conservation plan relating to the item and the proposed development.

6.22 Acid sulfate soils

- (1) Development that is likely to result in the disturbance of more than one tonne of soil or to lower the water table in areas where acid sulfate soils exist may be carried out only with development consent despite the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this Chapter.
- (2) Before granting a consent required by this section, the consent authority must consider—
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines* (ASSAG), and
 - (b) the likelihood of the proposed development resulting in the discharge of acid waters, and

6.23 Acquisition of land zoned Special Uses

- (1) The owner of land within the Special Uses Zone may, by notice in writing served on the Roads and Traffic Authority (**the RTA**), require the RTA to acquire the land.
- (2) On receipt of the notice, the RTA is to acquire the land.
- (3) Subsection (2) does not apply if—
 - (a) the land might reasonably be required to be dedicated as a condition of development consent pursuant to Division 6 of Part 4 of the Act, or
 - (b) the land is held by a public authority for use for public roads or public transport.

6.24 Additional documentation for development in Trade and Technology Zone

- (1) Consent must not be granted for development within the Trade and Technology Zone unless the consent authority has taken into consideration a written statement substantiating how the proposed development will achieve one or more of the stated objectives of the zone that are relevant to the proposed development.
- (2) Subsection (1) does not apply if, in the opinion of the consent authority, the development proposed is minor in nature or would not significantly affect the achievement of a zone objective.

6.25 Development allowed on certain land for recreation facility

- (1) This section applies to the following land at Arncliffe identified as “Area 1” on the [Additional Permitted Uses Map](#)—
 - (a) part of Lot 18, DP 1069479,
 - (b) part of Lot 100, DP 1228008,
 - (c) part of Lot 1, DP 576148,
 - (d) part of Lot 100, DP 1133869.
- (2) Development for the purpose of a recreation facility may be carried out with development consent.
- (3) This section has effect despite anything to the contrary in the Table to Part 3 or any other provision of this Chapter.

6.26 Temporary use of land

- (1) The objective of this section 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 Chapter, 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 Chapter 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 subsection (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 subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

Chapter 7 Moore Park Showground

Part 7.1 Preliminary

7.1 Land to which this Chapter applies

This Chapter applies to the land shown edged heavy black on the map marked “*Moore Park Showground Amendment No 1*” deposited in the head office of the Department of Urban Affairs and Planning.

7.2 Aims and objectives

This Chapter aims—

- (a) to enable the redevelopment of the Moore Park Showground in a manner that is consistent with its status as an area of importance for State and regional planning in New South Wales, and
- (b) to improve and enhance the cultural and recreational facilities of Sydney for the people of New South Wales by furthering the development of Sydney as a world class

film, television and video production centre, and

- (c) to recognise the State significance of a film and television studio on the Moore Park Showground in terms of employment generation and additional revenue for the State, and
- (d) to allow a range of film, television, video and related development, commercial uses associated with the film, television and video industry and other entertainment, recreational and educational activities on the Moore Park Showground, and
- (e) to ensure that a range of impacts is considered by the consent authority in determining development applications, and
- (f) to ensure that community and equestrian uses can continue on parts of the Moore Park Showground and that provision is made for public access, and
- (g) to recognise the heritage significance of the Moore Park Showground and protect any archaeological relics.

7.3 Relationship to other environmental planning instruments

- (1) On the commencement of this Chapter, the provisions of any local environmental plan or deemed environmental planning instrument that, immediately before that commencement, applied to the whole or any part of the land to which this Chapter applies cease to apply to that land.
- (2) In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before or after this Chapter, this Chapter prevails to the extent of the inconsistency.

7.4 Definitions

In this Chapter—

advertisement means the display of words, symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

amusement and entertainment facilities means a building in which recreation facilities, exhibitions or displays such as cinemas, showgrounds, amusement rides and electronically-simulated experiences are contained.

car and coach parking means a building, place or structure used for parking vehicles and any associated manoeuvring space and access, whether operated for gain or not.

catering facilities means facilities for providing food and refreshments for people employed at the Moore Park Showground.

commercial premises means a building used for the purposes of administration, or for clerical, technical, professional or other specific activities, related to the film, television and video industry.

Conservation Strategy for the Moore Park Showground means a strategy for management of items of heritage significance on the Moore Park Showground available from the offices of the Heritage Council.

equestrian uses means horse stabling, horse riding schools and associated activities.

external lighting means lighting provided to the outside of a building, structure or wall or associated with outdoor advertising at the Moore Park Showground.

film and television studio means a building or place having film, television or video production as its principal function and includes a building or place used for film studio tours, displays or exhibitions to the public.

film-related development means all development associated with, complementary to or necessary to support film, television or video production, including exhibitions, post production facilities, satellite communications, storage facilities, offices, shops, restaurants and catering facilities.

fuel storage facility means a facility used for the storage of liquid fuel products.

Moore Park Showground means the land shown edged heavy black on the map.

public buildings means buildings 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.

public events means musical entertainment, public entertainment, exhibitions or any community facility, community event or revenue-raising activity in accordance with the provisions of the [Centennial Park and Moore Park Trust Act 1983](#) and consistent with a Management Strategy approved by the Centennial Park and Moore Park Trust.

restaurant means a building or place, the principal purpose of which is the provision of food or beverages to people for consumption in or at that building or place.

shop means a building or place used for the purpose of selling merchandise or materials or food, but does not include a building or place elsewhere defined in this Chapter.

short term accommodation means a building or place used for the purposes of temporary accommodation for persons employed in the film, television and video industry.

temporary structures for film making purposes means any works, structures or film sets (not used for human habitation or for the storage of flammable material) that are to be used during film, television or video production and that are removed within one year of erection.

the map means the map marked “*Moore Park Showground Amendment No 2*” deposited in the head office of the Department of Urban Affairs and Planning.

7.5 Consent authority

The consent authority for development to which this Chapter applies is the Council of the City of Sydney, except as provided by the Act.

Part 7.2 Development on land shown diagonally hatched

7.6 Development permissible with development consent

A person may, with the consent of the consent authority, carry out development for any one or more of the following purposes on land shown diagonally hatched on the map—

Advertisements; amusement and entertainment facilities; car and coach parking; catering facilities; child care facilities; commercial premises; demolition; drainage; external lighting; film and television studio; film-related development; fuel storage facility; landscaping; public utilities; restaurants; roads; shops; subdivision; short term accommodation.

7.7 Development for musical entertainment and public entertainment

- (1) A person may, with the consent of the consent authority, carry out development for the purpose of musical entertainment or public entertainment on the land shown diagonally hatched on the map.
- (2) The consent authority must not determine an application for consent to carry out development to which this section applies unless the consent authority has first considered the relevant provisions of the Plan of Management for the Sydney Cricket Ground and Showground, 1994, prepared by CSK Planning and Associates.

7.8 Use of the Banquet Hall

Despite section 7.7, a person may carry out development without development consent in the Banquet Hall for the purpose of public events, but only if the development is carried out simultaneously with an event that is conducted in the Hordern Pavilion or the Royal Hall of Industries, or both.

7.8A Development consent not required for Airfields event on 19 March 2022

Despite any provision of this Chapter, development consent is not required for development on the land shown diagonally hatched on the map for the purposes of a musical entertainment event known as “Airfields” to be held on 19 March 2022.

7.9 Development permissible without development consent

A person may, without the consent of the consent authority, carry out development for any one or more of the following purposes on land shown diagonally hatched on the

map—

The Royal Easter Show; public buildings; temporary structures for film making purposes.

Part 7.3 Development on land shown vertically hatched

7.10 Development permissible with development consent

A person may, with the consent of the consent authority, carry out development for any one or more of the following purposes on land shown vertically hatched on the map—

Advertisements; car and coach parking; child care facilities; demolition; drainage; external lighting; public utilities; roads; subdivision.

7.11 Development permissible without development consent

A person may, without the consent of the consent authority, carry out development for any one or more of the following purposes on land shown vertically hatched on the map—

The Royal Easter Show; equestrian uses; landscaping; public buildings; public events.

Part 7.4 General

7.12 Exceptions to development standards

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

the development standard.

- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.
- (6) After determining a development application made pursuant to this section, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

7.13 Suspension of certain provisions of [Local Government Act 1993](#)

- (1) For the purpose of enabling development to be carried out in accordance with section 7.9 of this Chapter (as in force at the time the development is carried out), items 1, 2 and 4 of Part A of the Table to section 68 of the [Local Government Act 1993](#), and section 68 of that Act in its application to those items, to the extent necessary to serve that purpose, do not apply to development for the purpose of temporary structures for film making purposes.

- (2) Pursuant to section 28 of the *Environmental Planning and Assessment Act 1979*, before the making of this section—
 - (a) the Minister for the time being administering the provisions of the *Local Government Act 1993* referred to in subsection (1) concurred in writing in the recommendation for the approval of the Governor of subsection (1), and
 - (b) the Governor approved of subsection (1).

7.14 Advertising development applications

- (1) Before the consent authority determines a development application for consent to carry out development on the Moore Park Showground, the consent authority must—
 - (a) place a notice of that application in a newspaper circulating in the locality and in the State, and
 - (b) give written notice of that development application to the Council of the City of South Sydney, the Centennial Park and Moore Park Trust and adjoining properties, and
 - (c) cause a notice to be displayed on the land on which the development is proposed to be carried out.
- (2) A notice referred to in subsection (1) must include a statement that the development application is available for inspection at particular venues and over a period of not less than 28 days commencing from a specified date.
- (3) The consent authority is taken to have given notice referred to in subsection (1) (b) if arrangements have been made to deliver the notices by way of a postal service.
- (4) The consent authority may waive compliance with this section if the consent authority is of the opinion that the development application is for a minor matter.

7.15 Matters for consideration

In addition to considering other matters referred to in section 90 of the *Environmental Planning and Assessment Act 1979*, in determining a development application, the consent authority must consider such of the following matters as are in the consent authority's opinion of relevance to the development—

- (a) the management of noise emanating from the development,
- (b) traffic and parking generated by the development, measures to facilitate the use of public transport and the views of Transport for NSW,
- (c) the height, scale and bulk of the development and whether the development maintains the original road layout and vistas,

- (d) overshadowing impacts on open spaces and adjoining residential properties,
- (e) the capacity of on-site sewerage and drainage systems and their performance in a manner that will not cause adverse effects on the quality of the Centennial Park ponds and Botany wetlands,
- (f) the extent to which the development is ecologically sustainable,
- (g) whether there is contamination on the site, or asbestos is present in buildings, and remediation and validation of remediation so as to protect public health,
- (h) the appearance of external lighting at the site and measures to minimise spill,
- (i) the impact of the development on the amenity of the adjoining residential areas,
- (j) the provisions of the Conservation Strategy for the Moore Park Showground,
- (k) how the proposed development would affect the heritage significance of the site and any relic known or reasonably likely to be located at the site.

7.16 Floor space

The consent authority must not grant consent to an application to erect or alter a building on that part of the Moore Park Showground shown diagonally hatched on the map if the total floor area of buildings within that part will exceed 144,000 square metres.

7.17 Carrying out of public utility undertakings and certain other development

Nothing in this Chapter restricts or prohibits or enables a consent authority to restrict or prohibit the carrying out of development of any description specified in Schedule 1 to the [Environmental Planning and Assessment Model Provisions 1980](#).

7.18 Temporary use of land

- (1) The objective of this section 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 Chapter, 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 Chapter 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 subsection (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 subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

7.19 Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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.

7.20 Temporary use of land at Entertainment Quarter until 1 January 2026

- (1) Despite any other provision of this Chapter, development on the subject land for an approved temporary use during the relevant period is permitted with consent.
- (2) Development permitted with consent under this section is complying development if the development—
 - (a) meets the relevant provisions of the *Building Code of Australia*, and
 - (b) does not result in a building that exceeds 2 storeys or has a building height that exceeds 8 metres from ground level (mean), and
 - (c) does not result in a building with a gross floor area that exceeds 1,500 square metres, and
 - (d) does not result in more than 766 square metres of the gross floor area of a building in area B being used for an approved temporary use.
- (3) A complying development certificate issued for complying development under this section is subject to the following conditions—
 - (a) any premises on the subject land that are being used for an approved temporary use must operate only between 6 am and 11 pm on any day,
 - (b) any premises on the subject land must cease to be used for an approved temporary use before the end of the relevant period,
 - (c) any temporary structure on the subject land must be removed before the end of the relevant period.
- (4) A complying development certificate issued for complying development under this section is also subject to the conditions specified in clauses 1, 2, 5, 6, 8–10 and 12 of Schedule 8 to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (5) In this section, words and expressions that are not otherwise defined in this Chapter have the same meanings as in the standard instrument prescribed under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (6) In this section—

approved temporary use means any of the following—

- (a) commercial premises,
- (b) health services facilities,
- (c) amusement and entertainment facilities,
- (d) the construction, installation or removal of a temporary structure used for commercial premises, health services facilities or amusement and entertainment facilities.

area A means the land shown coloured yellow on the [Land Application Map](#).

area B means the land shown coloured green on the [Land Application Map](#).

commercial premises has the same meaning as in the standard instrument prescribed under the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

Land Application Map means the [State Environmental Planning Policy No 47—Moore Park Showground \(Amendment No 4\) Land Application Map](#) that—

- (a) was approved by the Minister on the making of [State Environmental Planning Policy No 47—Moore Park Showground \(Amendment No 4\)](#), and
- (b) is kept and made available for public access in accordance with arrangements approved by the Minister, and
- (c) is in, and kept and made available in, electronic or paper form, or both.

relevant period means the period commencing on the commencement of this section and ending on 1 January 2026.

subject land means land in area A or area B.

(7) (Repealed)

7.21 Canal estate development prohibited

- (1) Canal estate development is prohibited on land to which this Chapter applies.
- (2) In this section—

canal estate development has the same meaning as in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

Appendix 1 State significant precinct—Sydney Opera House

section 2.7

Part 1 Buffer zone

1 Development in buffer zone

- (1) This section applies to the Sydney Opera House buffer zone identified on the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Sydney Opera House Buffer Zone Map](#) (the **buffer zone**).
- (2) In deciding whether to grant consent to development in the buffer zone, the consent authority must consider the need for the development to—
 - (a) preserve the world heritage value of the Sydney Opera House, and
 - (b) preserve views and vistas between the Sydney Opera House and other public places in the buffer zone, and
 - (c) avoid diminution of the visual prominence of the Sydney Opera House when viewed from other public places in the buffer zone.
- (3) Subsection (2) does not apply to the following development—
 - (a) building work that involves only—
 - (i) the renovation, repair, rebuilding or demolition of a building, or
 - (ii) internal alterations to a building, or
 - (iii) external alterations to a building that are carried out below ground level,
 - (b) the subdivision of land,
 - (c) a use of land, other than—
 - (i) the temporary use of a public open space, and the erection of temporary structures in connection with the temporary use, for more than 50 days in a single period of 12 months, or
 - (ii) the temporary use of a private open space for more than 2 years,
 - (d) the installation or erection in an open space of an artwork, time capsule, bollard, tree surround, street furniture, pathway, driveway steps or flagpole,
 - (e) landscaping or tree planting.

Part 2 Exempt development

1A Land to which Part applies

This Part applies to land within the Sydney Opera House Site as referred to in [State Environmental Planning Policy \(Planning Systems\) 2021](#), Schedule 2, section 1.

2 Definition

In this Part—

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

3 Exempt development

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

4 Minor Repairs

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

5 Minor internal alterations and additions

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

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

6 Minor building works related to permanent and temporary security arrangements

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

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

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

8 Minor public domain works

- (1) Exempt development includes minor public domain works including—

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

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

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

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

- (1) Exempt development includes signage associated with shops, cafes, restaurants and offices, and signage for the purposes of advertising the events within the Sydney Opera House such as concourse posters, and light boxes, including—
- (a) removal of signage,
 - (b) replacement of existing signage with new signage,
 - (c) installation of new signage.

- (2) Any such exempt development must comply with the following requirements—
 - (a) the signage must be identified as non-intrusive or of “low” significance in the CMP,
 - (b) the development must make no change to the dimension, size and location of the existing signage,
 - (c) any new signage must be consistent with signage for adjoining tenancies in regard to size, dimension, location, design details and total number,
 - (d) the development must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP.

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

- (1) Exempt development includes the temporary use of the Sydney Opera House to project fireworks or make a broadcast.
- (2) Any such use must comply with the following requirements—
 - (a) the use must not adversely affect the heritage significance of the Sydney Opera House,
 - (b) the use must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,
 - (c) the use must be only for limited periods and on infrequent occasions,
 - (d) the use must be confined to exceptional, non-commercial occasions of brief duration.

12 Temporary use of public space for community events

- (1) Exempt development includes the temporary use of public space for community events that are open to the general public with no entry charges, including public gatherings, ceremonies, celebrations, sporting events, events for community and outdoor exhibitions that may involve the installation of temporary structures having minimal visual impact (such as barricading) that are otherwise ancillary to the event.
- (2) Any such use must comply with the following requirements—
 - (a) the use occurs between the hours of 8.00am to 11.00pm on Sundays to Thursdays and 8.00am to midnight on Fridays and Saturdays, except New Years Eve celebrations which may occur between 8.00am and 2.00am,
 - (b) community events (not more than four events in total in a calendar year) can start as early as 6.00am,
 - (c) set-up and clean-up can occur one day before and one day after each event,

except some community events (not more than a total of five events in a calendar year) with longer set-up and clean-up times may be required (not more than six bump in/out days in total per event),

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

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

- (1) Exempt development includes the temporary use of public space for minimal impact events related to the primary function of the Opera House as a performing arts centre, including temporary outdoor events and performances, such as Sydney Festival events, that involve the installation of temporary structures (including main stage, sound and lighting systems) having minimal visual impact that are otherwise ancillary to the event for which an entry fee may be charged.
- (2) Any such use must comply with the following requirements—
 - (a) the use takes place not more than 40 days (whether consecutive or not) in any 12 month period,
 - (b) the use occurs between the hours of 8.00am to 11.00pm on Sundays to Thursdays (all amplified music to commence after 10.00am and to cease by 10.30pm) and 8.00am to midnight on Fridays and Saturdays (all amplified music to commence

after 10.00am and to cease by 11.30pm),

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

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

- (1) Exempt development includes the erection of temporary buildings ancillary to the temporary use of a public space for minimal impact events.
- (2) Any such use must comply with the following requirements—
 - (a) all temporary buildings related to events must be confined to the event site area,
 - (b) public access to the lower concourse via the southern escalators, southern stairs and ramp must not be obstructed at any time,
 - (c) public access must not be obstructed between the bottom of the Tarpeian Steps and Royal Botanic Gardens Opera House Gate along the forecourt except during events,
 - (d) must not obstruct views identified as significant in the CMP,
 - (e) must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,
 - (f) details of temporary buildings must be consistent with the principles of the CMP in relation to “exterior furniture”,
 - (g) any temporary building must not remain in place for not more than 40 days

(whether consecutive or not) in any 12 month period, excluding one day bump-in and one day bump-out for each event.

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

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

- (1) Exempt development includes the erection of temporary signage ancillary to the temporary use of a public space for community events and minimal impact events.
- (2) Any such use must comply with the following requirements—
- (a) must not adversely affect the heritage significance of the Sydney Opera House,
 - (b) must have no adverse effect on fabric rated “some”, “considerable” or “exceptional” significance in the CMP,
 - (c) must not be displayed for more than fourteen days before a temporary outdoor event and must be removed within seven days after the event,
 - (d) does not obstruct views identified as significant in the CMP,
 - (e) must not contain general advertising unrelated to events or sponsors at the Sydney Opera House,
 - (f) any temporary signage ancillary to minimal impact events must not remain in place for more than 60 days (whether consecutive or not) in any 12 month period.
- (3) In this section—

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

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

Appendix 2 State significant precinct—Luna Park site

section 2.7

Part 1 Preliminary

1A Definitions

In this Appendix—

amusement device includes an amusement, ride or game.

Heritage Council has the same meaning as in the *Heritage Act 1977*.

Luna Park means the land identified as “Luna Park” on the [Luna Park Amusement Zone Map](#).

Luna Park Amusement Zone Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Luna Park Amusement Zone Map](#).

the cliff top sites means land in the cliff top area, near the intersection of Glen and Dind Streets, North Sydney, being such part of Lot 1 DP 1066900 as comprises former Lots 1259 and 1260 DP 48514.

The Midway means the land identified as “The Midway” on the [Luna Park Amusement Zone Map](#).

Part 2 Development on the cliff top sites

1B Land to which Part applies

This Part applies to the cliff top sites.

1C Subdivision—consent requirements

Land to which this Part applies may be subdivided, but only with development consent.

Notes—

1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.

2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

1D 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 Chapter 2 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.

1E Temporary use of land

(1) The objective of this section 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 Chapter 2, development consent may be granted for development on land to which this Part applies 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 Chapter 2 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 subsection (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 subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

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

- (1) This section applies to land in the cliff top area, near the intersection of Glen and Dind Streets, North Sydney, being such part of Lot 1 DP 1066900 as comprises former Lots 1259 and 1260 DP 48514 (**the cliff top sites**).
- (3) Development may be carried out on the cliff top sites for any purpose that is an authorised use under section 6C of the [Luna Park Site Act 1990](#) in relation to the cliff top area.
- (4) Any building on the cliff top sites—
 - (a) must not exceed—
 - (i) in the case of a building on land comprising former Lot 1259 DP48514, 44.8 metres in height above Australian Height Datum, or
 - (ii) in the case of a building on land comprising former Lot 1260 DP48514, 31.5

metres in height above Australian Height Datum, and

- (b) must not encroach on land beneath the canopy of any heritage fig tree.
- (5) Any building on land comprising former Lot 1259 DP48514, and any parking space on that land, must be set back at least 6 metres from the northern boundary of that land.
- (6) Subsection (5) does not prevent the erection, within 6 but no closer than 1.7 metres of the northern boundary, of any structure to facilitate vehicular access to parking spaces within the building.
- (7) Development consent must not be granted to the erection of any building on the cliff top sites unless—
 - (a) the consent authority is satisfied, after consultation with the Roads and Traffic Authority, that the building will not interfere with sight lines along Glen and Northcliff Streets to such an extent as to be a hazard to traffic, and
 - (b) the consent authority is satisfied, on the basis of information provided by the applicant for development consent, that neither the building, nor the process of its erection, will threaten or damage any heritage fig tree and, in particular, that land beneath the canopy of any heritage fig tree will not be used for any purpose in connection with the erection of the building, and
 - (c) the consent authority is satisfied that appropriate arrangements will be made to give public access to the open spaces around the building.
- (8) Nothing in any local environmental plan or regional environmental plan applies to or in respect of the carrying out of development on the cliff top sites.
- (10) Clause 4.6 of *North Sydney Local Environmental Plan 2013* does not apply to or in respect of the cliff top sites.
- (11) In this section—

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

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

2A Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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 Amusement devices

3 Exempt development—amusement devices

The installation, modification, replacement, relocation or operation of an amusement device that is on land identified as “Exempt and complying development” on the [Luna Park Amusement Zone Map](#) is exempt development if it complies with the following requirements—

- (a) the amusement device must not be installed for more than 16 weeks in any 26 week period,
- (b) the development must not involve any permanent footings or foundations,
- (c) the development 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,
- (d) the development must not, if it relates to an existing building, cause the building to

contravene the *Building Code of Australia*,

- (e) the amusement device must be installed in accordance with the manufacturer's specifications, if applicable,
- (f) the development must—
 - (i) be consistent with a conservation management plan endorsed by the Heritage Council under section 38A of the *Heritage Act 1977*, or
 - (ii) have been granted an exemption under section 57(2) of that Act or be subject to an exemption under section 57(1A) or (3) of that Act, or
 - (iii) be consistent with an approval granted under section 63 of that Act,
- (g) the amusement device must not exceed a stationary height of RL20,
- (h) the amusement device must not be enclosed (partially or otherwise) within a new building,
- (i) the amusement device must not emit noise that exceeds the maximum permissible noise level (within the meaning of section 19A(5) of the *Luna Park Site Act 1990*),
- (j) the amusement device must not involve strobe lighting,
- (k) the development must be consistent with—
 - (i) the *Luna Park Acoustic Plan of Management* adopted on 4 June 2002, and
 - (ii) the *Luna Park Lighting Strategy* adopted on 28 May 2002, and
 - (iii) AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
 - (iv) AS/NZS 1158.3.1:1999, *Road lighting, Part 3.1: Pedestrian area (Category P) lighting—Performance and installation design requirements*,
- (l) the development must comply with the relevant provisions of AS 3533.1-2009, *Amusement rides and devices—Design and construction*.

Note 1—

The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2017* contain provisions relating to amusement devices.

Note 2—

The development consent for DA 154-06-01 imposes conditions regulating the hours of operation of all external rides, amusements and entertainments at Luna Park.

4 Complying development—amusement devices

The installation, modification, replacement, relocation or operation of an amusement

device on land identified as “Exempt and complying development” on the [Luna Park Amusement Zone Map](#) is complying development if it complies with the following requirements—

- (a) the number of amusement devices within Luna Park with a stationary height of more than RL22 must not exceed 6,
- (b) the amusement device must not exceed a stationary height of RL40,
- (c) the development must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*,
- (d) the development must meet the relevant provisions of the *Building Code of Australia*,
- (e) the amusement device must not emit noise that exceeds the maximum permissible noise level (within the meaning of section 19A(5) of the [Luna Park Site Act 1990](#)),
- (f) the development must—
 - (i) be consistent with a conservation management plan endorsed by the Heritage Council under section 38A of the [Heritage Act 1977](#), or
 - (ii) have been granted an exemption under section 57(2) of that Act or be subject to an exemption under section 57(1A) or (3) of that Act, or
 - (iii) be consistent with any approval granted under section 63 of that Act,
- (g) the amusement device must not be enclosed (partially or otherwise) within a new building,
- (h) the amusement device must not involve strobe lighting,
- (i) the development must be consistent with—
 - (i) the *Luna Park Acoustic Plan of Management* adopted on 4 June 2002, and
 - (ii) the *Luna Park Lighting Strategy* adopted on 28 May 2002, and
 - (iii) AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
 - (iv) AS/NZS 1158.3.1:1999, *Road lighting, Part 3.1: Pedestrian area (Category P) lighting—Performance and installation design requirements*,
- (j) the development must comply with the relevant provisions of AS 3533.1-2009, *Amusement rides and devices—Design and construction*,
- (k) if works are required for the purposes of the development, the occupier of each dwelling that is located on a lot that has a boundary within 20 metres of Luna Park has been given written notice of the works at least 7 days before the works commence.

Note—

The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2017](#) contain provisions relating to amusement devices.

5 Amusement devices on “The Midway”

- (1) The installation, modification, replacement or relocation of an amusement device on The Midway must also comply with the following requirements—
 - (a) despite section 3(a) of this Appendix, the amusement device must not be installed for a period exceeding 3 months,
 - (b) the development must not result in the width of The Midway being less than 8 metres,
 - (c) the amusement device must not exceed a length or width of more than 10 metres,
 - (d) emergency vehicle access to and through The Midway must be maintained.
- (2) Subsection (1)(b) does not prevent an amusement device being installed on, or relocated to, the site occupied by the ferris wheel or carousel ride at the commencement of this section.

6 Condition of complying development

A complying development certificate issued under this Appendix in relation to the operation of an amusement device must contain a condition requiring the hours of operation of the amusement device to be in accordance with the conditions of the development consent for DA 154-06-01.

Appendix 3 State significant precinct—Redfern-Waterloo Authority sites

section 2.7

Part 1 Preliminary

1 Land to which Appendix applies

This Appendix applies to the area shown edged heavy black on the [Land Application Map](#) referred to in this Schedule as the **Redfern-Waterloo Authority Sites**.

2 Definitions

- (1) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

(2) In this Appendix—

Additional Permitted Uses Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Additional Permitted Uses Map](#).

Floor Space Ratio Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Floor Space Ratio Map](#).

Gross Floor Area Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Gross Floor Area Map](#).

Height of Buildings Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Height of Buildings Map](#).

Heritage Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Heritage Map](#).

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

Land Application Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Land Application Map](#).

Land Zoning Map means the [State Environmental Planning Policy \(Major Development\) 2005 Redfern–Waterloo Authority Sites—Land Zoning Map](#).

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.

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

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

3 Relationship with other environmental planning instruments

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

Part 3 Provisions relating to development of Redfern–Waterloo Authority Sites

6 Development to which Part applies

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

7 Land use zones

- (1) For the purposes of Chapter 2, land within the Redfern–Waterloo Authority Sites is within a zone specified below if the land is shown on the [Land Zoning Map](#) as being within that zone—
 - (a) Business Zone—Business Park
 - (b) Business Zone—Commercial Core
 - (c) Business Zone—Mixed Use
 - (d) Business Zone—Local Centre

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

8 Business Zone—Business Park

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

9 Business Zone—Commercial Core

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

- (a) to facilitate the development of a town centre,
 - (b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,
 - (c) to permit residential development that is compatible with non-residential development,
 - (d) to maximise public transport patronage and encourage walking and cycling,
 - (e) to ensure the vitality and safety of the community and public domain,
 - (f) to ensure buildings achieve design excellence,
 - (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Commercial Core—
- bulky goods premises; depots; dual occupancies; dwelling houses; hazardous industries; hazardous storage establishments; heavy industries; home occupations (sex services); industries; light industries; offensive industries; offensive storage establishments; restricted premises; sex services premises; transport depots; truck depots; vehicle body repair workshops; warehouses or distribution centres.
- (3) Except as otherwise provided by Chapter 2, development is permitted with consent on land within the Business Zone—Commercial Core unless it is prohibited by subsection (2).

10 Business Zone—Mixed Use

- (1) The objectives of the Business Zone—Mixed Use are as follows—
- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,
 - (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,
 - (c) to permit residential development that is compatible with non-residential development,
 - (d) to maximise public transport patronage and encourage walking and cycling,
 - (e) to ensure the vitality and safety of the community and public domain,
 - (f) to ensure buildings achieve design excellence,
 - (g) to promote landscaped areas with strong visual and aesthetic values to enhance

the amenity of the area.

- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Mixed Use—

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

- (3) Except as otherwise provided by Chapter 2, development is permitted with consent on land within the Business Zone—Mixed Use unless it is prohibited by subsection (2).

11 Business Zone—Local Centre

- (1) The objectives of the Business Zone—Local Centre are as follows—

- (a) to facilitate the development of a local centre,
- (b) to provide a range of retail, business, educational, health and community facilities in the Zone to serve the local community,
- (c) to permit residential development that is compatible with non-residential development,
- (d) to maximise public transport patronage and encourage walking and cycling,
- (e) to ensure the vitality and safety of the community and public domain,
- (f) to ensure buildings achieve design excellence,
- (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Local Centre—

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

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

12 Recreation Zone—Public Recreation

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

13 Recreation Zone—Private Recreation

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

(2).

14 Residential Zone—Medium Density Residential

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

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

15 Special Purpose Zone—Infrastructure

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

Special Purpose Zone—Infrastructure only with consent—

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

16 Special Purpose Zone—Community

- (1) The objectives of the Special Purpose Zone—Community are as follows—
- (a) to enable land to be used for community purposes,
 - (b) to enable development to be carried out for the social, educational and recreational needs of the community,
 - (c) to support development that is related or ancillary to community, recreational or educational use of the land in the Zone,
 - (d) to ensure the vitality and safety of the community and public domain,
 - (e) to ensure that buildings achieve design excellence,
 - (f) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes may be carried out on land within the Special Purpose Zone—Community only with development consent—
- advertisements; advertising structures; boarding houses; car parks; centre-based child care facilities; community facilities; educational establishments; entertainment facilities; function centres; hostels; information and educational facilities; kiosks; medical centres; office premises; passenger transport facilities; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); registered clubs; restaurants; telecommunications facilities; temporary structures; tourist and visitor accommodation related or ancillary to community facilities, educational establishments, recreation facilities (indoor) or recreation facilities (outdoor).
- (3) Except as otherwise provided by Chapter 2, development is prohibited on land within the Special Purpose Zone—Community unless it may be carried out under subsection (2).

16A Exceptions to development standards

- (1) The objectives of this section are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
 - (a) the consent authority is satisfied that—
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subsection (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.
- (6) After determining a development application made pursuant to this section, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

17 Exempt development

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

- (a) the temporary use of the land for community events that are open to the general public, including public gatherings, ceremonies, sporting events or outdoor exhibitions,
- (b) the erection and use of temporary structures, having minimal visual impact, for the purposes of, or in connection with, any such community event,
- (c) the erection and use of outdoor seating, tables and similar furniture located in the public domain and associated with cafes, restaurants, bars and other similar development,
- (d) the erection, installation, maintenance and upgrading by or on behalf of a public authority of public furniture, planter boxes, lighting, public art, street signs, bus shelters, public telephone booths or post boxes, or the carrying out by or on behalf of a public authority of street planting, work for the purpose of changing the width or surface of a footpath, and related road works,
- (e) the erection, installation, maintenance and upgrading by or on behalf of a public authority in existing public recreation areas of public furniture, shade structures, public art, tables, seats, children's play equipment, barbecues and toilets,
- (e1) the carrying out, by or on behalf of a public authority, of landscaping associated with existing public recreation areas,

- (f) development for the purposes of real estate signs,
- (g) the erection of a flagpole, if the maximum height of the flagpole is not more than 6 metres above existing ground level,
- (h) erection of a side or rear boundary fence located behind the front wall of a building, if the fence does not exceed 1.8 metres in height and is not of masonry construction,
- (i) the use of premises for a home business,
- (j) minor internal alterations to commercial or retail premises, such as fit-out works or the installation of partitions, shelving, benches or workstations, if the alterations are not structural, do not result in the creation of additional floor space and do not change the building classification.

18 Unzoned land

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

19 Public utility undertakings excepted

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

20 Subdivision—consent requirements

- (1) Land within the Redfern–Waterloo Authority Sites may be subdivided, but only with consent.

Note—

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

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

- (a) in the case of a building to which Part 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* applies, or
- (b) where the building has been designed or approved for occupation as a single unit.

20A 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 Chapter 2 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.

21 Height, floor space ratio and gross floor area restrictions

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

Note—

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

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

22 Design excellence

- (1) Consent must not be granted to a new building or to external alterations to an existing building unless the consent authority has considered whether the proposed development exhibits design excellence.
- (2) In considering whether proposed development exhibits design excellence, the consent authority must have regard to the following matters—
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the building will improve the quality and amenity of the public domain,

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

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

(3) The consent authority may require a design competition for any development over 12 storeys consistent with guidelines issued by the Redfern–Waterloo Authority and approved by the Minister.

(4) The Redfern–Waterloo Authority may draft a guideline to be approved by the Minister detailing what matters are to be addressed for design excellence and for the conduct of design competitions.

23 Car parks

Development consent may not be granted for the purpose of car parks on land within the Business Zone—Business Park unless the consent authority is satisfied that the number of car parking spaces in that zone will not, as a result of the granting of consent, exceed 1,600 car spaces.

23A Additional permitted uses for certain land

Despite any other provision of Chapter 2, a person may, with development consent, carry out development for the purposes of information and education facilities and rail infrastructure facilities on land shown hatched on the [Additional Permitted Uses Map](#).

24 Suspension of covenants, agreements and instruments

(1) For the purpose of enabling development on land within any zone to be carried out in accordance with Chapter 2 or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

(2) Nothing in subsection (1) affects the rights or interests of any public authority under any registered instrument.

(3) Pursuant to section 28 of the Act, before the making of this section, the Governor approved of subsections (1) and (2).

24A Infrastructure development and use of existing buildings of the Crown

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

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

24B Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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 4 Additional provisions for the Redfern-Waterloo Authority Sites not applying to Part 3A projects

25 Development to which Part applies

The provisions of this Part do not apply with respect to development on land within the Redfern-Waterloo Authority Sites that is a transitional Part 3A project.

26 Notification of development

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

27 Heritage conservation

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

28 Preservation of trees or vegetation

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

Note—

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

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—
 - (a) development consent, or
 - (b) a permit granted by the consent authority.
- (4) The refusal by the consent authority to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the consent authority to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This section does not apply to a tree or other vegetation that the consent authority is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This section does not apply to a tree or other vegetation that the consent authority is satisfied is a risk to human life or property.
- (7) A permit under this section cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation that is or forms part of a heritage item (within the meaning of section 27).

Note—

As a consequence of this subsection, the activities concerned will require development consent. The heritage provisions of section 27 will be applicable to any such consent.

- (8) This section does not apply to or in respect of—
 - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the [Native Vegetation Act 2003](#) or that is a routine agricultural management activity within the meaning of that Act carried out on land to which that Act applies, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the [Native Vegetation Act 2003](#)) that is authorised by a development consent under the provisions of the [Native Vegetation Conservation Act 1997](#) as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the [Forestry Act 1916](#), or
 - (d) action required or authorised to be done by or under the [Electricity Supply Act 1995](#), the [Roads Act 1993](#) or the [Surveying Act 2002](#), or
 - (e) plants declared to be noxious weeds under the [Noxious Weeds Act 1993](#).

29 Community use of educational establishments

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

30 Temporary use of land

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

Appendix 4 State significant precinct—North Head Federal Police Training site

section 2.7

Part 1 Preliminary

1 Land to which Appendix applies

This Appendix applies to the land identified as the North Head Federal Police Training site on the following map—

2 Interpretation

A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Appendix.

3 Relationship with other environmental planning instruments

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

Part 3 Provisions applying to development within North Head Federal Police Training site

5 Application of Part

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

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

- (1) Development for the purpose of a police training facility and any ancillary development may be carried out with consent on land within the North Head Federal Police Training site.
- (2) Development for the purpose of a public utility undertaking may be carried out without consent on land within the North Head Federal Police Training site.

8 Infrastructure development and the use of existing buildings of the Crown

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

Appendix 5 State significant precinct—Barangaroo site

section 2.7

Part 1 Preliminary

1 Land to which this Appendix Applies

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Schedule as the **Barangaroo site**.

2 Interpretation

- (1) In this Appendix—

Gross Floor Area Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Barangaroo Gross Floor Area Map](#).

Height of Buildings Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Barangaroo Height of Buildings Map](#).

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

Heritage Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Barangaroo Heritage Map](#).

Land Application Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Barangaroo Land Application Map](#).

Land Zoning Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Barangaroo Land Zoning Map](#).

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

3 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development on land within the Barangaroo site are Chapter 2 and all other State environmental planning policies.

Part 3 Provisions applying to development within Barangaroo site

6 Application of Part

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

7 Land use zones

- (1) For the purposes of Chapter 2, land within the Barangaroo site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone—
- (a) Zone B4 Mixed Use,
 - (b) Zone RE1 Public Recreation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

8 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows—
- (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable development in accessible locations so as to maximise public

transport patronage and encourage walking and cycling,

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

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

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

bulky goods premises; caravan parks; dual occupancies; dwelling houses; extractive industries; hazardous industries; hazardous storage establishments; heavy industries; industries; light industries; materials recycling or recovery centres; mines; moveable dwellings; offensive industries; offensive storage establishments; restricted premises; sex services premises; truck depots; warehouse or distribution centres.

9 Zone RE1 Public Recreation

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

- (a) to enable land to be used for public open space or recreational purposes,

- (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes,
 - (d) to ensure the vitality and safety of the community and public domain,
 - (e) to promote and maintain public access to and along the foreshore,
 - (f) to allow land beneath the finished surface of the public domain to be used for car parking associated with development on land within Zone B4 Mixed Use if it can be demonstrated that any such use will not detract from the primary use of the land for public open space or recreational purposes,
 - (g) to allow the public domain to be enhanced by a variety of compatible land uses in a manner that contributes positively to, and does not dominate, the primary use of the land for public open space or recreational purposes,
 - (h) to allow land to be used in conjunction with the transportation of passengers by water.
- (2) Development for any of the following purposes may be carried out with consent on land within Zone RE1 Public Recreation—
- business identification signs; charter and tourism boating facilities; community facilities; earth works; entertainment facilities; environmental facilities; environmental protection works; filming; flood mitigation works; food and drink premises; function centres; information and education facilities; jetties; kiosks; markets; moorings; passenger transport facilities; public entertainment; public halls; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; telecommunications facilities; telecommunications networks; temporary structures; transport depots; underground car parks; water recreation structures; waterbodies (artificial).
- (3) Except as otherwise provided by Chapter 2, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subsection (2).
- (4) For the purposes of subsection (2), **kiosk** means retail premises with a gross floor area not exceeding 80 square metres and that provides food, light refreshments and other small convenience items such as newspapers, films and the like.

12 Demolition within Zone RE1 Public Recreation

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

13 Advertising within Zone RE1 Public Recreation

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

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

15 Public utility undertakings

- (1) Development for the purposes of public utility undertakings that is carried out on land within the Barangaroo site does not require development consent.

16 Subdivision—consent requirements

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

Note—

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

- (3) **Strata subdivision** Subject to the other provisions of this Appendix, development consent may be granted to a subdivision of land under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* only if the consent authority is satisfied that the subdivision will result in lots that—
 - (a) if the subdivision is for the purpose of the erection of a building, are capable of accommodating a building that—
 - (i) complies with all relevant requirements of this Appendix, including those relating to maximum building height and gross floor area, design excellence and heritage conservation, and
 - (ii) is not an overdevelopment of the lot, and
 - (iii) facilitates orderly and high quality development of the resultant lots, and
 - (b) provide an appropriate curtilage for any heritage item on the land that does not adversely affect the heritage significance of the item, and
 - (c) are compatible with the existing subdivision pattern of the locality.
- (4) Before granting consent for stratum subdivision of a building, the consent authority must consider whether the related building management statement or strata management statement adequately addresses the ongoing maintenance, upgrading, redevelopment and structural adequacy of the part of the building within each proposed stratum lot.

- (5) Before granting the subdivision certificate for strata subdivision of a new or refurbished building, the consent authority must be satisfied that any occupation certificate needed before the building is occupied has been issued.

16A Temporary use of land

- (1) The objective of this section 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 Chapter 2, 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 Chapter 2 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 subsection (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 subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

17 Height of buildings

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

18 Gross floor area restrictions

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

19 Design excellence

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

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

(7) In this section—

design competition means a competitive process conducted in accordance with procedures issued by the Secretary from time to time.

20 Exceptions to development standards

(1) The objectives of this section 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 section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (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 section, 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 subsection (3).

20A Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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.

21 Heritage conservation

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

22 Infrastructure development and the use of existing buildings of the Crown

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

23 Development near zone boundaries

- (1) The objective of this section 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 section applies to so much of any land that is within the relevant distance of a

boundary between any 2 zones. The relevant distance is 25 metres.

- (3) Despite the provisions of this Appendix relating to the purposes for which development may be carried out, consent may be granted to development of land to which this section applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (4) This section does not prescribe a development standard that may be varied under this Appendix.

Appendix 6 State significant precinct—Wahroonga Estate site

section 2.7

Part 1 Preliminary

1 Land to which Appendix applies

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Appendix as the **Wahroonga Estate site**.

2 Interpretation

- (1) In this Appendix—

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

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

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

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

3 Consent authority

The consent authority for development on land within the Wahroonga Estate site is Hornsby Council.

5 Relationship with other environmental planning instruments

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

- (a) Chapter 2, and
- (b) all other State environmental planning policies.

Part 2 Provisions relating to development in Wahroonga Estate site

6 Application of Part

This Part applies to development on land within the Wahroonga Estate site.

7 Land use zones

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

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,
- (f) Zone SP1 Special Activities,
- (g) Zone E2 Environmental Conservation.

8 Objectives of land use zones to be taken into account

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

9 Zone R1 General Residential

- (1) The objectives of Zone R1 General Residential are as follows—
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,

- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential—
 - home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential—
 - attached dwellings; boarding houses; centre-based child care facilities; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R1 General Residential unless it is permitted by subsection (2) or (3).

10 Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows—
 - (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (c) to ensure that housing is compatible with the existing environmental character of the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—
 - home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—
 - bed and breakfast accommodation; boarding houses; centre-based child care facilities; community facilities; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; environmental protection works; health consulting rooms; home businesses; home industries; neighbourhood shops; places of public worship; recreation areas; roads; secondary dwellings; seniors housing; signage.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subsection (2) or (3).

11 Zone R3 Medium Density Residential

- (1) The objectives of Zone R3 Medium Density Residential are as follows—
 - (a) to provide for the housing needs of the community within a medium density residential environment,
 - (b) to provide a variety of housing types within a medium density residential environment,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential—

home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential—

attached dwellings; bed and breakfast accommodation; boarding houses; centre-based child care facilities; community facilities; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; environmental protection works; group homes; home businesses; home industries; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; roads; secondary dwellings; semi-detached dwellings; seniors housing.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subsection (2) or (3).

12 Zone R4 High Density Residential

- (1) The objectives of Zone R4 High Density Residential are as follows—
 - (a) to provide for the housing needs of the community within a high density residential environment,
 - (b) to provide a variety of housing types within a high density residential environment,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R4 High Density Residential—

home occupations.

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

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

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

13 Zone B1 Neighbourhood Centre

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

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

home occupations.

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

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

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

14 Zone SP1 Special Activities

- (1) The objectives of Zone SP1 Special Activities are as follows—

- (a) to provide for special land uses that are not provided for in other zones,
- (b) to provide for sites with special natural characteristics that are not provided for in other zones,
- (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

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

nil.

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

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

- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone SP1 Special Activities unless it is permitted by subsection (2) or (3).

15 Zone E2 Environmental Conservation

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

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

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

environmental protection works.

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

drainage; earthworks; environmental facilities.

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

17 Subdivision—consent requirements

- (1) Land within the Wahroonga Estate site may be subdivided, but only with development consent.

Note—

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

17A 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 Chapter 2 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.

18 Height restrictions

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

19 Maximum number of dwellings

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

21 Exceptions to development standards

(2) The objectives of this section are—

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

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

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

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

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

- (a) the consent authority is satisfied that—
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (4), and

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (6) 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.
- (7) Development consent must not be granted under this section for a subdivision of land in Zone SP1 Special Activities or Zone E2 Environmental Conservation.
- (8) After determining a development application made pursuant to this section, 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 subsection (4).
- (9) This section does not allow development consent to be granted for development that would contravene any of the following—
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

22 Bush fire hazard reduction

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

Note—

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

23 Preservation of trees or vegetation

- (1) The objective of this section is to preserve the amenity of the Wahroonga Estate site through the preservation of trees.
- (2) This section applies to a tree that meets the criteria set out under the heading “What is a tree under this Order?” in the tree preservation order made under clause 42 of the

Ku-ring-gai Planning Scheme Ordinance and adopted by the Ku-ring-gai Council on 12 December 2006, but does not apply to a tree of a species described as an exempt tree species in that order.

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree to which this section applies on the Wahroonga Estate site without the authority conferred by—
 - (a) development consent, or
 - (b) a permit granted by Hornsby Council.
- (4) The refusal by Hornsby Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by Hornsby Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This section does not apply to a tree that Hornsby Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This section does not apply to a tree that Hornsby Council is satisfied is a risk to human life or property.
- (8) This section does not apply to or in respect of—
 - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (c) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

25 Public utility infrastructure

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

- (b) the supply of electricity or gas,
- (c) the disposal and management of sewage.

25A Conversion of fire alarms

- (1) This section 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 subsection (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 section—

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.

26 Infrastructure development and use of existing buildings of the Crown

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

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

27 Temporary use of land

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

Appendix 7 State significant precinct—Sirius site

section 2.7

Part 1 General

1 Land to which Appendix applies

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

2 Interpretation

(1) In this Appendix—

Active Street Frontages Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Sirius Active Street Frontages Map](#).

building height (or **height of building**) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

existing building means the building on land within the Sirius site immediately before the commencement of this Appendix.

Height of Buildings Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Sirius Height of Buildings Map](#).

Land Application Map means the [State Environmental Planning Policy \(State Significant Precincts\) 2005 Sirius Land Application Map](#).

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

3 Relationship with continued planning provisions under Sydney Cove Redevelopment Authority Act 1968

An approved scheme in force under clause 29 of Schedule 1 to the [Environmental Planning and Assessment \(Savings, Transitional and Other Provisions\) Regulation 2017](#) does not apply to land within the Sirius site.

4 Minister is consent authority

The consent authority for development on land within the Sirius site is the Minister.

Part 2 Development standards

5 Land use zone

(1) For the purposes of Chapter 2, land within the Sirius site is in Zone B8 Metropolitan Centre.

(2) The consent authority must have regard to each of the objectives for development in

Zone B8 Metropolitan Centre when determining a development application in respect of land within that zone.

6 Zone B8 Metropolitan Centre

- (1) The objectives for development in Zone B8 Metropolitan Centre are as follows—
 - (a) to recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy,
 - (b) to provide opportunities for an intensity of land uses commensurate with Sydney's global status,
 - (c) to permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community,
 - (d) to encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling,
 - (e) to promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B8 Metropolitan Centre—

Nil
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B8 Metropolitan Centre—

Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Tourist and visitor accommodation; Any other development not specified in subsection (2) or (4)
- (4) Development for any of the following purposes is prohibited on land within Zone B8 Metropolitan Centre—

Nil

7 Design excellence

- (1) The objective of this section is to deliver the highest standard of architectural, urban and landscape design.
- (2) This section applies to development involving the erection of a new building on land

within the Sirius site or alterations to the existing building.

- (3) Development consent must not be granted for development to which this section applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain and, in the case of an alteration to the existing building, enhance the building's unique historic characteristics,
 - (c) whether the development detrimentally impacts on view corridors, with particular regard to views to and from National Heritage sites, including the Sydney Opera House and Sydney Harbour Bridge,
 - (d) whether the development detrimentally impacts the world heritage value of the Sydney Opera House having regard to Appendix 1, section 1,
 - (e) the requirements of the Design Excellence Guidelines,
 - (f) how the development addresses the following matters—
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) impacts on world, national, state and local heritage items in proximity to the site,
 - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

- (x) the impact on, and any proposed improvements to, the public domain and streetscape,
 - (xi) the impact on any special character area,
 - (xii) achieving appropriate interfaces at ground level between the building and the public domain,
 - (xiii) excellence in and integration of landscape design.
- (5) Development consent must not be granted for development to which this section applies unless—
- (a) an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the proposed development, and
 - (b) the consent authority takes into account the results of the architectural design competition, and
 - (c) a design review panel has reviewed the design of the proposed development.
- (6) An architectural design competition under subsection (5) is not required for any proposed development that is a minor external alteration to the existing building if—
- (a) the consent authority is satisfied that a design competition would be unreasonable or unnecessary, and
 - (b) a design review panel has reviewed the design of the proposed development.
- (7) In this section—

architectural design competition means a competitive process conducted in accordance with the Design Excellence Guidelines and endorsed by the NSW Government Architect.

building demonstrating design excellence means a building where the design of the building (or the design of an external alteration to the building) is the winner of a competitive design process and the consent authority is satisfied that the building or alteration exhibits design excellence.

Design Excellence Guidelines means the Design Excellence Guidelines issued by the Secretary from time to time.

design review panel means a panel of 3 or more persons established by the NSW Government Architect on behalf of the consent authority for the purposes of this section.

8 Car parks

- (1) The maximum number of car parking spaces for residential flat buildings and multi dwelling housing on land within the Sirius site is as follows—
 - (a) for each studio dwelling—0.1 spaces,
 - (b) for each 1 bedroom dwelling—0.3 spaces,
 - (c) for each 2 bedroom dwelling—0.7 spaces,
 - (d) for each 3 or more bedroom dwelling—1 space.
- (2) The maximum number of car parking spaces for a building used for the purposes of serviced apartments or hotel or motel accommodation on land within the Sirius site is as follows—
 - (a) 1 space for every 4 bedrooms up to 100 bedrooms,
 - (b) 1 space for every 5 bedrooms more than 100 bedrooms.

9 Height of buildings

The height of any new building, or any alterations to the existing building, on land within the Sirius site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

10 Active street frontages

- (1) The objective of this section is to promote uses that attract pedestrian traffic along certain ground floor street frontages on land within the Sirius site.
- (2) This section applies to land identified as “Active street frontage” on the [Active Street Frontages Map](#).
- (3) Development consent must not be granted to the erection of a building, the alteration of the existing building or a change of use of a building, on land to which this section applies unless the consent authority is satisfied that the building will have an active street frontage after its erection, alteration or change of use.
- (4) Despite subsection (3), an active street frontage is not required for any part of a building that is used for any of the following—
 - (a) entrances and lobbies (including as part of mixed use development),
 - (b) access for fire services,
 - (c) vehicular access.

11 Maximum gross floor area

- (1) This section applies if the existing building is completely demolished.
- (2) The maximum gross floor area of a building on any land within the Sirius site is 8,420m².

Part 3 Additional development standards if existing building not demolished

12 Application of Part

This Part applies if the existing building is not completely demolished.

13 Maximum gross floor area

The maximum gross floor area of a building on land within the Sirius site is 7,010m².

14 Exceptions to development standards

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

be demonstrated by subsection (3), and

- (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
- (5) Development consent must not be granted under this section for a subdivision of land.
- (6) After determining a development application made pursuant to this section, 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 subsection (4).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
 - (c) any variation to the maximum gross floor area of a building on land within the Sirius site that would result in a gross floor area of more than 8,420m².

Appendix 8 Stage 1 Bays West Precinct

Part 1 Preliminary

1 Land to which Appendix applies

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Appendix as the **Stage 1 Bays West Precinct**.

2 Interpretation

(1) In this Appendix—

Active Street Frontages Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Active Street Frontages Map](#).

Design Guide means the *Stage 1 Bays West—White Bay Power Station (and Metro) Design Guide*, published by the NSW Department of Planning and Environment in December 2022.

Floor Space Ratio Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Floor Space Ratio Map](#).

Height of Buildings Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Height of Buildings Map](#).

heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 9 and shown on the [Heritage Map](#).

Heritage Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Heritage Map](#).

Land Application Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Land Application Map](#).

Land Zoning Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Land Zoning Map](#).

Place Strategy means the *Bays West Place Strategy*, published by the NSW Department of Planning, Industry and Environment in November 2021.

residential development means development for the purposes of residential accommodation involving—

- (a) the construction of a new building, or
- (b) if the development has a capital investment value of at least \$10 million—alterations to, or the enlargement or extension of, an existing building.

Site A means land identified as “Site A” on the [Land Application Map](#).

Site B means land identified as “Site B” on the [Land Application Map](#).

Site C means land identified as “Site C” on the [Land Application Map](#).

Site D means land identified as “Site D” on the [Land Application Map](#).

Solar Access to Public Open Space Map means the [State Environmental Planning Policy \(Precincts—Eastern Harbour City\) 2021 Bays West Solar Access to Public Open Space Map](#).

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

3 Aims of Appendix

The aims of this Appendix are as follows—

- (a) to support development of the Stage 1 Bays West Precinct that—
 - (i) is consistent with the Design Guide and the Place Strategy, and

- (ii) balances growth and change with the character, heritage and amenity of the site,
- (b) to reinforce the Stage 1 Bays West Precinct as a mixed use precinct integrated with enhanced port and working harbour activities, supported by—
 - (i) the adaptive re-use of the White Bay Power Station, and
 - (ii) more convenient and direct active transport connections through the Sydney Metro,
- (c) to support the revitalisation of critical heritage assets and create an international gateway at the White Bay Cruise Terminal by—
 - (i) capitalising on the innovation corridor to adopt new technologies and sustainable port operations, and
 - (ii) building a world-class foreshore walk with walking and cycling connections,
- (d) to ensure the ongoing growth of employment floor space and residential accommodation in Sydney to meet NSW government forecasts for housing,
- (e) to ensure future land uses in the White Bay Power Station can deliver a viable development outcome that enhances and celebrates the building’s heritage, while supporting a vibrant night-time economy and innovative cultural and creative uses,
- (f) to ensure future development acknowledges and embeds Country, reflects indigenous design principles and provides opportunities to connect with Country.

Part 2 Permitted or prohibited development

4 Land use zones

The land use zones under this Appendix are as follows—

Employment Zones

E2 Commercial Centre

Mixed Use Zones

MU1 Mixed Use

Special Purpose Zones

SP1 Special Activities

Recreation Zones

RE1 Public Recreation

5 Zoning of land to which Appendix applies

For Chapter 2, land is within the zones shown on the [Land Zoning Map](#).

6 Zone objectives and Land Use Table

- (1) The Land Use Table specifies for each zone—
 - (a) the objectives for development, and
 - (b) development that may be carried out without development consent, and
 - (c) development that may be carried out only with development 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 relation to land in the zone.
- (3) In the Land Use Table, a reference to a type of building or other thing—
 - (a) is a reference to development for the purposes of the type of building or other thing, and
 - (b) does not include a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.
- (4) This section is subject to the other provisions of this Appendix.

Land Use Table

Zone E2 Commercial Centre

1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure uses support the viability of centres.

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Artisan food and drink industries; Centre-based child care facilities; Commercial premises; Community facilities; Educational

establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Animal boarding or training establishments; Car parks; Industrial retail outlets; Industries; Residential accommodation; Serviced apartments; Storage premises

Zone MU1 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To ensure residential accommodation is suitably located to protect amenity and minimise environmental impacts related to air quality, wind and noise.

2 Permitted without consent

Nil

3 Permitted with consent

Amusement centres; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Respite day care centres; Residential accommodation; Roads; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Animal or boarding training establishments; Car parks; Extractive industries; Heavy industrial storage establishments; Helipads; Industries; Storage

premises; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres

Zone SP1 Special Activities

1 Objectives of zone

- To provide for special land uses that are compatible and consistent with the *White Bay Power Station Conservation Management Plan*, dated March 2013.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the White Bay Power Station, and that minimises any adverse impacts on surrounding land.
- To facilitate development in the White Bay Power Station that will enable a range of appropriate commercial, creative, entertainment and community uses.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Hotel or motel accommodation; Information and education facilities; Light industries; Recreation facilities (indoor); Recreation facilities (outdoor)

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 facilitate public access to and along the foreshore.
- To conserve public open space that enhances the scenic and environmental quality of the Stage 1 Bays West Precinct and Sydney Harbour.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Aquaculture; Biosolids treatment facilities; Community facilities; Environmental facilities; Jetties; Kiosks; Marinas; Mooring pens; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Roads; Take away food and drink premises; Water recycling facilities

4 Prohibited

Any development not specified in item 2 or 3

Part 4 Principal development standards

7 Height of buildings

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

- (a) to ensure buildings are compatible with the height, bulk and scale of the desired future character of the area, and positively contribute to the streetscape and public spaces,
- (b) to ensure protected view corridors to and from the White Bay Power Station are kept,
- (c) to ensure the height of buildings includes lift overruns, plant and architectural roof features and other roof elements,
- (d) to protect the amenity of residential accommodation, neighbouring properties and public spaces in relation to—
 - (i) visual and acoustic privacy, and
 - (ii) solar access and view sharing.

(2) The height of a building must not exceed the maximum height shown for the land on the [Height of Buildings Map](#).

8 Floor space ratio

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

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,
 - (b) to regulate the density of development, built form and land use intensity,
 - (c) to control the generation of vehicular and pedestrian traffic,
 - (d) to provide for an intensity of development proportionate to the capacity of existing and planned infrastructure,
 - (e) to ensure new development—
 - (i) reflects the desired character of the area in which it is located, and
 - (ii) minimises adverse impacts on the amenity of the area.
- (2) The maximum floor space ratio for a building must not exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

9 Calculation of floor space ratio and site area

- (1) **Objectives** The objectives of this section are as follows—
- (a) to define **floor space ratio**,
 - (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to—
 - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
 - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
 - (iii) require community land and public places to be dealt with separately.
- (2) **Definition of “floor space ratio”** The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.
- (3) **Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be—
- (a) if the proposed development is to be carried out on only one lot—the area of that lot, or
 - (b) if the proposed development is to be carried out on 2 or more lots—the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subsections (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

- (4) **Exclusions from site area** The following land must be excluded from the site area—
- (a) land on which the proposed development is prohibited, whether under this Policy or any other law,
 - (b) community land or a public place, except as provided by subsection (7).
- (5) **Strata subdivisions** The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.
- (6) **Only significant development to be included** The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.
- (7) **Certain public land to be separately considered** For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.
- (8) **Existing buildings** The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.
- (9) **Covenants to prevent “double dipping”** When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the **restricted lot**) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.
- (10) **Covenants affect consolidated sites** If—
- (a) a covenant of the kind referred to in subsection (9) applies to any land (**affected land**), and
 - (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

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

(11) **Definition** In this section—

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

10 Site area of development includes dedicated land

In calculating a floor space ratio under section 9, the site area of development on land in the Stage 1 Bays West Precinct includes land—

- (a) dedicated to the Council or another public authority for a public purpose, or
- (b) otherwise set aside as—
 - (i) publicly accessible open space, or
 - (ii) a pedestrian link.

11 Concurrence of Planning Secretary

- (1) Development consent must not be granted to development unless the consent authority has obtained the concurrence of the Planning Secretary.
- (2) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
 - (a) the impact of the development on—
 - (i) existing designated State public infrastructure, and
 - (ii) the need for additional designated State public infrastructure,
 - (b) the cumulative impact of the development with other development that has, or is likely to be, carried out in surrounding areas on—
 - (i) existing designated State public infrastructure, and
 - (ii) the need for additional designated State public infrastructure,
 - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into contributing to designated State public infrastructure.
- (3) In deciding whether to grant concurrence, the Planning Secretary must also consult the public authorities that the Planning Secretary considers relevant to the development.
- (4) This section does not apply to development if all or part of the land on which the

development is to be carried out is in a special contributions area to which a determination under the Act, section 7.23 applies.

(5) In this section—

designated State public infrastructure means public facilities or services that are provided or financed by the State, or if provided or financed by the private sector, to the extent of the financial or in-kind contribution by the State, of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) rail infrastructure and land,
- (d) regional parks and public space,
- (e) social infrastructure and facilities, including schools, hospitals, emergency services and justice facilities.

12 Exceptions to development standards

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

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

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

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

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

(4) Development consent must not be granted for development that contravenes a development standard unless—

- (a) the consent authority is satisfied that—
 - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subsection (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 Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.
- (6) After determining a development application made under this section, 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 subsection (3).
- (7) This section does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

Part 5 Heritage conservation

13 Objectives of Part

The objectives of this Part are as follows—

- (a) to conserve the environmental heritage of the Stage 1 Bays West Precinct, including the White Bay Power Station and heritage curtilage,
- (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.

14 Requirement for consent

(1) Development consent is required for the following—

(a) demolishing or moving the following or altering the exterior of the following, including making changes to the detail, fabric, finish or appearance of a building—

(i) a heritage item,

(ii) an Aboriginal object,

(b) altering a heritage item that is a building by making—

(i) structural changes to its interior, or

(ii) changes to anything inside the item that is specified in Schedule 9 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

(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

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(2) However, development consent under this section 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, 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 Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

15 Heritage conservation

- (1) Development consent must not be granted under this Part unless the consent authority—
 - (a) has considered a conservation management plan or heritage impact statement setting out an assessment of the matters listed in subsection (2), and
 - (b) is satisfied the development is compatible with the conservation of the heritage significance of the item.
- (2) In determining whether to grant development consent to the development, the consent authority must consider the following—
 - (a) the heritage significance of the heritage item,
 - (b) the impact the development will have on the heritage significance of the heritage item and its setting,
 - (c) the measures proposed to conserve the heritage significance of the heritage item and its setting,
 - (d) whether an archaeological site or potential archaeological site will be adversely affected by the development.
- (3) In determining whether to grant development consent to development on land identified in the Design Guide or a conservation management plan as a potential archaeological site, the consent authority may request a report on the likely impact of the development on archaeological material.

16 Demolition of heritage items

Development consent must not be granted to development resulting in the complete or substantial demolition of a heritage item unless the consent authority is satisfied—

- (a) the item, or the part of the item proposed to be demolished, does not have sufficient heritage significance to justify its retention, and
- (b) development achieving the following will be carried out on the site—
 - (i) the erection of buildings of a higher architectural and urban design quality than were exhibited by the heritage item before the demolition in consideration of the provisions of this Appendix and the Design Guide,
 - (ii) a positive contribution to the streetscape,
 - (iii) for a partial demolition—the adaptive re-use of the remaining part of the heritage item.

Part 6 Miscellaneous provisions

17 Design excellence

- (1) The objective of this section is to ensure development to which this section applies exhibits the highest standard of landscape, architectural and urban design as part of the built environment.
- (2) This section applies to—
 - (a) development involving—
 - (i) the construction of a new building, or
 - (ii) external alterations to, or the enlargement or extension of, an existing building, and
 - (b) development on land in Zone RE1 Public Recreation in Site D.
- (3) Development consent must not be granted for development to which this section applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must consider the following matters—
 - (a) whether a high standard of architectural and landscape design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

- (c) whether the development detrimentally impacts view corridors, including views of Sydney Harbour and views protected under the *White Bay Power Station Conservation Management Plan*, dated March 2013,
- (d) how the development addresses the following matters—
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) heritage issues and streetscape constraints,
 - (iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts, including sustainable design, overshadowing, wind and reflectivity and visual and acoustic privacy,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements, including the permeability of any pedestrian network,
 - (x) the impact on, and proposed improvements to, the public domain, including landscape design,
 - (xi) the relationship of the development with the street and building frontage,
 - (xii) the integration of landscape design with the surrounding area.
- (5) A building on land in Site B may exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#) by up to 10% if—
 - (a) the building will result from development with a capital investment value of at least \$10 million, and
 - (b) an architectural design competition is held in relation to the development, and
 - (c) the consent authority is satisfied the building demonstrates design excellence as the winner of the architectural design competition.
- (6) In this section—

architectural design competition means a competitive process conducted in accordance with the Design Guide.

18 Number of car and bicycle parking spaces for uses of land

- (1) The objectives of this section are as follows—
 - (a) to minimise the use of private vehicles, and
 - (b) to encourage the use of public transport, walking and cycling as the dominant mode of transport.
- (2) Development consent must not be granted to development resulting in the number of car parking spaces provided in connection with a use of land exceeding the maximum specified in this section.
- (3) The maximum number of car parking spaces and visitor parking spaces is as follows—
 - (a) for commercial premises other than retail premises—1 space per 1,100m² of gross floor area used for that purpose,
 - (b) for residential accommodation—
 - (i) 0 spaces per studio dwelling, and
 - (ii) 0.25 spaces per dwelling with 1 bedroom, and
 - (iii) 0.5 spaces per dwelling with 2 bedrooms, and
 - (iv) 0.5 space per dwelling with 3 or more bedrooms, and
 - (v) 0 visitor parking spaces,
 - (c) for serviced apartments—0 spaces.
- (4) The minimum number of bicycle parking spaces is as follows—
 - (a) for commercial premises other than retail premises—
 - (i) 1 space per 100m² of gross floor area used for that purpose, and
 - (ii) 0.25 visitor parking spaces per 100m² of gross floor area used for that purpose,
 - (b) for retail premises—
 - (i) 0.5 spaces per 100m² of gross floor area used for that purpose, and
 - (ii) 0.6 visitor parking spaces per 100m² of gross floor area used for that purpose,
 - (c) for residential accommodation—
 - (i) 1 space per studio dwelling, and
 - (ii) 1 space per dwelling with 1 bedroom, and

- (iii) 2 spaces per dwelling with 2 or more bedrooms, and
 - (iv) 0.1 visitor parking spaces per dwelling,
 - (d) for serviced apartments—0.1 visitor parking spaces per dwelling.
- (5) If the total number of parking spaces is not a whole number, the total must be rounded down to the next whole number.
- (6) In this section—

car parking space means a space for the parking of motor vehicles that is ancillary to another land use, but does not include—

- (a) a place primarily used for—
 - (i) the washing of vehicles, or
 - (ii) the loading or unloading of goods, or
 - (iii) the storage of bicycles, or
- (b) a space for the exclusive use of vehicles belonging to a car share scheme.

car share scheme means a scheme in which a body corporate, an unincorporated body or a public authority—

- (a) owns or manages and maintains vehicles for shared or communal use, and
- (b) hires the vehicles exclusively to members of the scheme for occasional use for short periods of time, on demand and on a pay-as-you go basis.

visitor parking space means a bicycle parking space for use by visitors to, and not residents or other occupants of, a building.

19 Development below mean high water mark

- (1) The objective of this section is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on land below the mean high water mark of a body of water subject to tidal influence, including the bed of the water.

20 Overshadowing of public places

Development consent must not be granted to development that results in a building causing overshadowing of a public place identified on the [Solar Access to Public Open Space Map](#) between 9am and 3pm on 21 June in any year as follows—

- (a) for land identified as “Area 1”—at least 4 hours of sunlight covering at least 90% of

the land,

- (b) for land identified as “Area 2” or “Area 4”—at least 2 hours of sunlight covering 100% of the land,
- (c) for land identified as “Area 3”—at least 2 hours of sunlight covering at least 60% of the land.

21 End of journey floor space

- (1) This section applies to land in Site B and Site C.
- (2) A building used only for non-residential purposes is eligible for an amount of additional floor space (**end of journey floor space**) equal to the floor space occupied by the following facilities—
 - (a) showers,
 - (b) change rooms,
 - (c) lockers,
 - (d) bicycle storage areas.
- (3) The amount of end of journey floor space must not be more than the amount of floor space that can be achieved by applying a floor space ratio of 0.3:1 to the building.

22 Kiosks in Site D

The gross floor area of a kiosk on land in Site D must not exceed 30m².

23 Active street frontages

- (1) The objective of this section is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone E2 Commercial Centre and Zone MU1 Mixed Use.
- (2) This section applies to land identified as “Active street frontage” on the [Active Street Frontages Map](#).
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this section applies unless the consent authority is satisfied that, after the building’s erection or change of use, all premises facing the street on the ground floor of the building will—
 - (a) have an active street frontage, and
 - (b) be used for one or more of the following purposes—

Centre-based child care facilities; Commercial premises; Community facilities;

Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Medical centres; Mortuaries; Public administration buildings; Recreation facilities (indoor); Registered clubs; Veterinary hospitals

- (4) An active street frontage is not required for part of a building used for one or more of the following—
- (a) entrances and lobbies, including as part of mixed use development,
 - (b) access for fire services,
 - (c) vehicular access.

24 Additional floor space for residential development

- (1) BASIX development forming part of residential development may exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#) by up to 5% if the consent authority is satisfied the building is—
- (a) capable of—
 - (i) exceeding the applicable BASIX target for water by at least 7 points or equivalent, and
 - (ii) achieving a NatHERS rating of 7 stars or equivalent, and
 - (iii) achieving a “platinum” certification under the *Livable Housing Design Guidelines*, published by Livable Housing Australia in 2017, and
 - (b) designed to incorporate appropriate mechanical ventilation measures, for example, exhaust with heat recovery, ducts and fans, to enable the circulation of heat-controlled and filtered fresh air.
- (2) In this section—

BASIX development has the same meaning as in the [Environmental Planning and Assessment Regulation 2021](#).

BASIX target means a target for water or energy efficiency—

- (a) set by the Planning Secretary for the purposes of BASIX certificates issued under the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#), section 71, and
- (b) in force on the commencement of this section.

NatHERS means the Nationwide House Energy Rating Scheme administered by the Commonwealth Government.

25 Additional floor space for non-residential development

- (1) A building involved in non-residential development may exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#) by up to 5% if the consent authority is satisfied the building is capable of achieving a 6 star NABERS energy rating.
- (2) A building is capable of achieving a 6 star NABERS energy rating if there is a NABERS commitment agreement to achieve the rating without the use of GreenPower.
- (3) In this section—

GreenPower means renewable energy provided by an electricity provider accredited under the National GreenPower Accreditation Program managed by the NSW Office of Energy and Climate Change on behalf of the National GreenPower Steering Group.

NABERS energy rating means a rating for the energy efficiency of a building under the National Australian Built Environment Rating System.

non-residential development means development, other than development for the purposes of residential accommodation, involving—

- (a) the construction of a new building, or
- (b) if the development has a capital investment value of at least \$10 million—alterations to, or the enlargement or extension of, an existing building.

26 Development on land in Site A

- (1) Development consent must not be granted to development on land in Site A if the development will result in the gross floor area of all buildings on the land exceeding 18,000m².
- (2) In determining the gross floor area of all buildings on the land, the sum of the following must be excluded—
 - (a) the end of journey floor space within the meaning of section 21,
 - (b) the gross floor area of the part of a building intended to be used for passenger transport facilities.

27 Residential development on Site B

- (1) This section applies to land in Zone MU1 Mixed Use in Site B.
- (2) Development consent must not be granted to residential development on land to which this section applies unless the consent authority is satisfied the building resulting from the development incorporates appropriate measures intended to—
 - (a) reduce the level of external noise affecting residents inside the building, and

- (b) improve the quality of air circulating through the building.

28 Development on land in Site C

Development consent must not be granted to development on land in Site C unless the consent authority is satisfied at least 50% of the gross floor area of a building resulting from, or involved in, the development will be used for one or more of the following purposes—

- (a) community facilities,
- (b) creative industries,
- (c) entertainment facilities,
- (d) food and drink premises.

Schedule 1 Development that may be carried out under a permit

(Section 3.5)

Amusement parks; art galleries; child care centres; commercial premises (other than premises used for pawnbroking or other forms of moneylending); car parking stations; charter boat facilities; convention centres; entertainment centres; exhibition centres; film, television and radio studios; hotels; light industries; markets; motels; museums; parks and gardens; places of assembly; places of public worship; professional consulting rooms; public buildings; public utility undertakings; recording studios; recreation facilities; refreshment rooms; residential buildings; serviced apartments; shops; theatre restaurants; utility installations.

Schedule 2 Definitions

(Section 4.6)

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of Chapter 4.

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

Advertisement means a display of symbols, messages or other devices for commercial promotional purposes for conveying information or instructions or the like, whether or not the display includes the erection of a structure or the carrying out of a work, but does not include signage for the identification and naming of buildings and uses or directional or community information signage.

Affordable housing has the meaning given to that expression in Part 4.

Bays Precinct means the land shown edged heavy black on Map 2, Sheet 3.

Brothel means premises habitually used for the purpose of prostitution. Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

Business floor space means the part of the gross floor area of a building that is the subject of a

business use.

Business use means any form of development carried out for a commercial or educational purpose, but does not include residential development or public utility undertakings.

City West Development Corporation means the Corporation having that name established under the [Growth Centres \(Development Corporations\) Act 1974](#).

Community facility means a building or place that provides for the physical, social, cultural, religious, educational or intellectual development or welfare of the community, but does not include business floor space not directly related to its community function.

Conservation area means an area of heritage significance, being land identified on Map 4 as a conservation area.

Conservation management plan means a document which has been prepared in accordance with the provisions of the NSW Heritage Manual and which establishes the heritage significance of a heritage item and identifies conservation management policies and management mechanisms that are appropriate to enable that significance to be retained.

Conservation policy means the guidelines prepared by the Director-General for directing conservation management within a Precinct.

Demolition, in relation to a heritage item or any other building or structure, means its damaging, defacing, destruction, pulling down or removal.

Ecologically sustainable development means development that uses, conserves and enhances the community's resources and energy so that the ecological processes on which life depends are maintained and the total quality of life now and in the future can be increased.

Eveleigh Precinct means the land shown edged heavy black on Map 2, Sheet 2.

Floor space ratio of a building means the ratio of the gross floor area of the building to the site area.

Gross floor area means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the inner faces of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, excluding—

- columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external wall, and
- lift towers, cooling towers, machinery and plant rooms, and air conditioning and ventilation ducts, and
- ancillary car parking and any associated internal designated vehicular and pedestrian access thereto, and
- space for the loading and unloading of goods, and
- internal public areas such as arcades, atria and thoroughfares, and terraces and balconies with outer walls less than 1,400 millimetres high.

Height of a building, means the vertical distance measured in metres between the natural surface level of the ground on which the building is sited or, where the natural surface has been excavated, the land of the adjoining public domain, and the ceiling of the topmost habitable floor of the building above that point.

Heritage impact statement means a statement which identifies the heritage significance of a heritage item or conservation area, assesses the impact that the proposed work will have on this significance and details the measures proposed to minimise this impact.

Heritage item means a building, work, relic, tree or place identified on Map 4 as a heritage item and described in Schedule 4.

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

Home occupation means any business use of a dwelling or its surrounding land, or both, but only by permanent residents of the dwelling, being a use that does not unreasonably interfere with the use of adjoining properties or the locality.

Map means a map deposited in the Head Office of the Department.

Map 1 means the map marked “[Sydney Regional Environmental Plan No 26—City West. Map 1 \(Second Edition\)—City West Area](#)”, as amended by the maps marked as follows—

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

Sydney Regional Environmental Plan No 26—City West. Map 1—City West Area (Amendment No 8)—1999 Update

Sydney Regional Environmental Plan No 26—City West. Map 1—City West Area (Amendment No 9)

Map 2 means the map marked “[Sydney Regional Environmental Plan No 26—City West—Map 2](#)”, consisting of the Sheets marked as follows—

Sheet 1—Ultimo-Pyrmont Precinct—Land Use Zones

Sheet 1—Ultimo-Pyrmont Precinct—Land Use Zones (Amendment No 1)

Sheet 1—Ultimo-Pyrmont Precinct—Land Use Zones (Amendment No 2)

Sheet 2—Eveleigh Precinct—Land Use Zones

Sheet 1 (1995 Update)—Ultimo-Pyrmont Precinct—Land Use Zones

Sheet 3—Bays Precinct—Land Use Zones

Sheet 1—Ultimo-Pyrmont Precinct—Land Use Zones (Amendment No 8)—1999 Update

Sheet 1—Ultimo-Pyrmont Precinct—Land Use Zones (Amendment No 9)

Map 3 means the map marked “[Sydney Regional Environmental Plan No 26—City West. Map 3](#)”,

consisting of the Sheets marked as follows—

Sheet 1—Ultimo-Pyrmont Precinct—Permissible Building Heights

Sheet 1—Ultimo-Pyrmont Precinct—Permissible Building Heights (Amendment No 1)

Sheet 2—Eveleigh Precinct—Permissible Building Heights

Sheet 1—Ultimo-Pyrmont Precinct—Permissible Building Heights (Amendment No 8)—1999 Update

Sheet 1—Ultimo-Pyrmont Precinct—Permissible Building Heights (Amendment No 9)

Map 4 means the map marked “[Sydney Regional Environmental Plan No 26—City West. Map 4](#)”, consisting of the Sheets marked as follows—

Sheet 1—Ultimo-Pyrmont Precinct—Heritage and Conservation

Sheet 2—Eveleigh Precinct—Heritage and Conservation

Sheet 1 (1995 Update)—Ultimo-Pyrmont Precinct—Heritage and Conservation

Sheet 3—Bays Precinct—Heritage and Conservation

Sheet 1—Ultimo-Pyrmont Precinct—Heritage and Conservation (Amendment No 8)—1999 Update

Sheet 1—Ultimo-Pyrmont Precinct—Heritage and Conservation (Amendment No 9)

Map 5 means the map marked “[Sydney Regional Environmental Plan No 26—City West. Map 5](#)”, consisting of the Sheets marked as follows—

Sheet 1—Ultimo-Pyrmont Precinct—Master Planning

Sheet 2—Eveleigh Precinct—Master Planning

Sheet 1 (1995 Update)—Ultimo-Pyrmont Precinct—Master Planning

Sheet 3—Bays Precinct—Master Planning

Sheet 1—Ultimo-Pyrmont Precinct—Master Planning (Amendment No 8)—1999 Update

Sheet 1—Ultimo-Pyrmont Precinct—Master Planning (Amendment No 9)

Map 6 means the map marked “[Sydney Regional Environmental Plan No 26—City West. Map 6](#)”, consisting of the Sheets marked as follows—

Sheet 1—Ultimo-Pyrmont Precinct—Non-Residential Development (Amendment No 9)

Master Plan means a Master Plan, as in force for the time being, adopted by the Minister.

Precinct means a precinct within City West established by Chapter 4 or any amendment of Chapter 4.

Public domain means land available for public use and includes streets, lanes, squares, playgrounds, parks, open shopping malls, pedestrian walkways and the like.

Public utility undertaking means any undertaking carried on by or under the authority of any

Government department, or pursuant to any Commonwealth or State Act, for the purpose of—

- railway, light railway, road, water or air transport, or wharf or river undertakings, or
- the provision of sewerage or drainage services, or
- the supply of water, hydraulic power, electricity or gas, or
- telecommunications facilities.

Real estate sign means an advertisement of a temporary nature in respect of a place or premises to which it is attached which contains only a notice that the place or premises is or are for sale or letting together with particulars of the sale or letting and is not displayed for more than 7 days after the sale or letting.

Recreational facility means a building or place used for sporting, recreation or leisure activities, whether or not operated for the purpose of gain.

Residential development means the use of land for any form of housing, including housing leased on a short-term basis subject to the [Residential Tenancies Act 1987](#), but does not include the use of land for a hotel, a hostel, an apartment hotel (being a building consisting of suites of rooms rented or hired out without being leased on a short-term basis), a boutique hotel, serviced apartments, backpacker accommodation, a motel or the like.

Standard Instrument means the standard instrument for a local environmental plan prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

Temporary use of Land for the Purpose of a School at Wentworth Park Map means the map marked “Sydney Regional Environmental Plan No 26—City West Temporary use of Land for the Purpose of a School at Wentworth Park Map”.

TfNSW means Transport for NSW constituted under the [Transport Administration Act 1988](#).

Ultimo-Pyrmont Precinct means the land shown edged heavy black on Map 2, Sheet 1.

Urban development plan means an urban development plan, as in force for the time being, adopted by the Minister.

Schedule 3 Development not requiring consent

(Section 4.10)

The following development does not require consent if it would be permissible with consent had it not been included in this Schedule—

- Construction and use of aids to navigation, maintenance dredging by the Maritime Services Board and maintenance of mooring facilities.
- Development referred to in clause 35 (a), (b) or (c) of the [Environmental Planning and Assessment Model Provisions 1980](#). (For the purposes of Chapter 4, nothing in clause 35 (a) of those Provisions authorises the demolition of a heritage item which is incidental or ancillary to any development without the need for development consent and the reference in clause 35 (c) of those Provisions to

dwelling-houses includes a reference to any dwellings.)

- Demolition of the following (unless part of a heritage item)—
 - advertising structures, sheds, kiosks, garages, roof structures (such as plant rooms and cooling towers), shop fronts, internal walls and ceilings, partitions, stairs and ducts.
- Within the Glebe Island/White Bay area of the Port and Employment Zone—temporary structures associated with the port (such as hailnetting) and the maintenance and modification of existing structures; the erection and maintenance of port communication equipment; structures for or associated with the storage and processing of cargo; installation, modification and maintenance of utilities and service facilities.
- Installation, modification and maintenance of pipelines, landscaping, fencing and signage associated with the port.
- Subdivision associated with port operations.
- Demolition of wetland structures in the Port and Employment Zone.
- Erection and use of outdoor seating, adjoining tables and like furniture located in the public domain, associated with adjoining cafes, restaurants, bars and the like and required to be licensed by a public authority.
- Development for the purpose of real estate signs that is carried out consistently with any urban development plan.
- Development on land zoned Residential—Business for the purpose of business identification signs that are not erected on a heritage item, being development that is carried out consistently with any urban development plan.
- Erection and use of public furniture, planter boxes, lighting, bus shelters, public telephone booths or post boxes, or the carrying out of street planting, footpath widening or roadworks and the like, undertaken by or on behalf of a public authority.
- Erection and use of public furniture and carrying out of landscaping associated with existing public recreation areas, such as the erection of shade structures, children’s play equipment, barbecues, toilets and like furniture, but not including either the construction of club houses, swimming pools, gymnasiums or like recreational facilities or associated buildings or the erection of restaurants.
- Development of a heritage item or a building or work in a conservation area if, in the opinion of the consent authority, the proposed development is of a minor nature or comprises maintenance of the heritage item or building or work and would not adversely affect the heritage significance of the heritage item or its setting or the conservation area.

The development specified in this Schedule does not include development to which [State Environmental Planning Policy \(Infrastructure\) 2007](#) applies.

Schedule 4 Heritage items

(Section 4.36)

Part 1 Items in the Ultimo-Pyrmont Precinct

- 1 81 Broadway
- 2 9-13 Broadway
- 3 1-7 Broadway
- 4 Sydney Technical College, Cnr. Wattle and Thomas Sts
- 5 Counselling Building, Sydney Technical College
- 6 Administration Building A, Sydney Technical College
- 7 Hall Building B, Sydney Technical College
- 8 Technological Museum, Mary Ann and Harris Sts
- 9 Terraces 578-606 Harris St
- 10 Commercial Building, 608-614 Harris St
- 11 Terraces 68-80 Mary Ann St
- 12 Terraces 629-637 Harris St
- 13 Terraces 597-607 Harris St
- 14 Terraces 77-79 Macarthur St
- 15 Vulcan Hotel, 498-500 Wattle St
- 16 Terraces 111-187 Jones St
- 17 Terraces 12-22 Mary Ann St
- 18 Terraces 430-444 Wattle St
- 19 Warehouse 99-109 Jones St
- 20 Terraces 50-52 Macarthur St
- 21 Terraces 66-80 Macarthur St
- 22 Miller's Self Storage, 492-516 Jones St
- 23 Terraces 286-340, Bulwara Road
- 24 Terraces 11-63 Hackett St

- 25 Powerhouse Museum, William Henry St
- 26 Childcare Centre, 494 Harris St
- 27 Glasgow Arms Hotel, 527–529 Harris St
- 28 House, 103 William Henry St
- 29 Former Woolstore (facade), 17–59 William Henry St
- 33 Uniting Church and Harris Centre, 97 Quarry St
- 34 Terraces 102–104 Quarry St
- 35 Terraces 242–262 Bulwara Rd
- 36 Terraces 33–39 Ada Place
- 37 Terraces 451–455 Harris St
- 38 Terraces 50–52 Ada Place
- 39 Cottage and terraces 92–98 Quarry St
- 40 Lord Wolseley Hotel, 265 Bulwara Rd
- 41 Former Woolstore, 41–45 Jones St
- 42 Former Woolstore, 28–40 Wattle St
- 43 Electricity Sub-station, 8 Henry Avenue
- 44 City Council, Terraces 286–318 Jones St
- 45 Edwin Davey and Sons, Flour Mills, 2A Allen St
- 46 Woolbrokers Arms Hotel, 22 Allen St
- 47 Former Woolstore, 24 Allen St
- 48 Terraces 224–302 Harris St
- 49 Commercial Premises, 304–308 Harris St
- 50 Pyrmont Fire Station, Gipps St
- 51 MMI Building, 47–49 Murray St
- 52 Pyrmont Bridge Road Hotel, 11 Pyrmont Bridge Road
- 53 Westpac Bank Archives, 17–21 Pyrmont Bridge Road
- 54 Waite and Bull Building, 137 Pyrmont St
- 55 Water Board Pumping Station, 10A Wattle St

- 56 Quarryman's Hotel, 214–216 Harris St
- 57 Dunkirk Hotel, 205–207 Harris St
- 58 Terraces 189–203 Harris St
- 59 Bonnington and Company Building, 179 Harris St
- 60 Terraces 135–155 Harris St
- 61 Terraces 1–21 Paternoster Row
- 62 Commercial Building, 1 Union St
- 63 Terraces 2–22 Union St
- 64 Pyrmont Post Office, 146–150 Harris St
- 65 Terraces 99–125 Harris St
- 66 Pyrmont Bridge Hotel, 94 Union St
- 67 The New York Hotel, 50 Union St
- 68 Charmelu, 35 Union St
- 69 Festival Records Pty Ltd, 63–79 Miller St
- 70 Building A, Pyrmont Power Station, 42 Pyrmont St
- 71 Schute, Bell, Badgery, Lumby Ltd, 47–69 Pyrmont St
- 72 CSR Hostel, 79–85 Harris St
- 73 Terraces 31–41 Mount St
- 74 McCaffery's Building, 17 Mount St
- 75 Terraces 5–15 Mount St
- 76 Terraces 75–77 John St
- 77 John St Annex, John St
- 78 Terminus Hotel, 61 Harris St
- 79 Terraces 63–65 Harris St
- 80 Terrace 67 Harris St
- 81 Sandstone Bakery, 82 Harris St
- 82 Terraces 74–80 Harris St
- 83 Cottages, 27–29 Pyrmont St

- 84 St Bede's School, St Bede's Church & Rectory, 37-43 Pyrmont St
- 85 Royal Pacific Hotel, 59 Harris St
- 86 Terraces 54-66 John St
- 87 Pyrmont Arms Hotel, 42-44 Harris St
- 88 Cooperage Building, CSR, Bowman St
- 89 Main Office, CSR, Bowman St
- 90 Laboratory B, CSR, Bowman St
- 91 Tablet House, CSR, Bowman St
- 92 Gate House, CSR, Bowman St
- 93 Store House, CSR, Bowman St
- 94 Terraces, 120-140 Bowman St and 83 Point St
- 95 Way's Terrace, 12-20 Point St
- 96 Cottage, 4 Ways Terrace
- 97 Naval Stores Building, Jones Bay Rd, Darling Island
- 98 Naval Warehouse, Wharf, Darling Island
- 99 Wharves and Sheds, Wharf 19, 20, 21, Jones Bay Road
- 100 Escarpment Face
- 101 Cast Iron Palisade Fence, Bowman St and Cross St
- 102 Escarpment and Fencing, Jones Bay Road
- 103 Railway Cutting
- 104 Terraces 46-52 Harris Street
- 105 Terraces 2-8 Scott Street
- 106 Terraces 1-5 Cross Street
- 107 TAFE Building, U 622 Harris St
- 108 TAFE Building, 19 Mary Ann St, Cnr Jones St
- 109 Residence 238 Bulwara Rd
- 110 Terraces and former hotel, 365-375 Bulwara Rd
- 111 Millers Self Storage, 14-18 William Henry St

- 112 Terraces 20–36 William Henry St
- 113 Terraces 91–97 William Henry St
- 114 Former St Francis Xavier Church and School, 247–257 Bulwara Rd
- 116 Virgin Building, 51–53 Murray St
- 117 Terrace houses 142–168 Pyrmont St
- 118 Maybanke Kindergarten and Playground, 99 Harris St
- 119 Former Pyrmont Baths, Pyrmont Point
- 120 War Memorial, Union Square
- 121 Sam Horden fountain, Cnr Pyrmont St and Pyrmont Bridge Rd
- 122 Terrace houses 31–33 Union St
- 123 Terrace houses 86–94 Union St
- 124 Dwellings 91–95 Pyrmont St
- 125 Terraces 2A and 2B Mill St
- 126 Rail cutting and Rail bridge, Harris St
- 127 Engineers Store, former CSR, Harris St
- 128 Northern facade, The Boiler House, former CSR, Harris St
- 129 Western and northern escarpment and cliff face, Pirrima Rd
- 130 Arrow Marine building, 17a Pirrima Rd
- 131 Wattle Street railway viaduct, Wattle St
- 132 Warehouse and terraces 10–18 Pyrmont St

Part 2 Items in the Eveleigh Precinct

- 1 Locomotive Workshops—Bays 1–15, including machinery in Bays 1–4, Eveleigh Rail Yard
- 2 New Locomotive Shop, Eveleigh Rail Yard
- 3 Works Manager’s Office, Eveleigh Rail Yard
- 4 Large Erecting Shop, Eveleigh Rail Yard
- 5 Administration Building, Former Chief Mechanical Engineer’s office, Wilson Street
- 6 Gasometer and Pump, Eveleigh Rail Yard

7 Booking Office, Redfern Station, Lawson Street

Part 3 Items in the Bays Precinct

Buildings/Structures

1 Glebe Island wheat silos (components A, B and C as identified on Map 4)

2 Former Hotel, 78 Lilyfield Road

3 “Cadden Le Messurier”, 84 Lilyfield Road

4 (Repealed)

5 Monument, Glebe Island

6 Stormwater canal, Lilyfield Road

7 Railway Bridge, Railway Parade

8 Arched Bridge, Whites Creek

9 Railway truss bridge, Johnston Street

10 Wentworth Park rail viaduct

11 (Repealed)

12 Catherine Street railway bridge

13 NCA Steward’s Building, Wentworth Park

14 Store Building, Wentworth Park

15 NCA Entry tower, Wentworth Park

Landscape items

16 Wentworth Park

Schedule 5 Complying development

(Section 6.6)

Part 1 Instances of complying development

Development listed in this Part is complying development, but only if—

- (a) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
- (b) it does not contravene any condition of a development consent applying to the land, and
- (c) it meets the outcomes specified for it in this Part.

Development	Outcomes
<p>1 Different building uses; carrying out of building alterations</p> <ul style="list-style-type: none"> • A non-prohibited use of a building as an office or a shop resulting from a change of a lawful use of the building as a shop or an office • Internal alterations to buildings being lawfully used for shops or offices, if the alterations do not increase the total floor area of the building • Non-structural alterations to the exterior of a building, such as painting, plastering, cement rendering, cladding, attaching fittings and decorative work • Interior alterations to a building that do not affect the load-bearing capacity of any load-bearing component of the building 	<p>No increase to the total floor area of the building</p> <p>No more than 500 square metres of floor area are changed from an office to a shop</p> <p>No increase in total permissible floor area for shops within the precinct</p>
<p>2 Subdivision</p> <p>That enables implementation of an adopted master plan and will not result in any building contravening the deemed-to-satisfy provisions of the <i>Building Code of Australia</i></p>	<p>The subdivision must achieve one or more of the following only—</p> <ul style="list-style-type: none"> • widening of a public road • an adjustment of a boundary between lots that does not result in an increased number of lots • correcting an encroachment on a lot • consolidating lots
<p>3 Temporary buildings</p> <p>The erection of a building and its use for a period not exceeding 3 years specified in the application for a complying development certificate, being a building that is not used for the storage or handling of inflammable materials</p>	<p>Maximum height of the building is 1 storey</p> <p>Building is set back from every boundary of the lot by a minimum of 3 metres</p>

Part 2 Complying development certificate conditions

1 Before you begin work

- (1) Two days before any site works, building or demolition begins, the applicant must—
- (a) forward a Notice of Commencement of Work and Appointment of Principal Certifying Authority to the Council, and

- (b) notify the adjoining owners that work will commence.
- (2) Before any site works, building or demolition begins, the applicant must—
- (a) notify the consent authority of the name, address, phone number and licence number of the builder, and
 - (b) erect a sign at the front of the property with the builder's name, licence number and site address and the number of the certificate of compliance, and
 - (c) provide a temporary on-site toilet, and
 - (d) protect and support any neighbouring buildings, and
 - (e) protect any public place from obstruction or inconvenience due to the carrying out of the development, and
 - (f) prevent any substance from falling onto a public place, and
 - (g) follow any other conditions prescribed by the *Environmental Planning and Assessment Regulation 2000*.
- (3) This item does not impose a requirement on an applicant if the builder complies with it.

2 Inspections during construction

The applicant must notify either the Council or an accredited certifier in advance (at least 48 hours in advance in writing or 24 hours by phone) of the time to inspect the following—

- (a) erosion controls, site works and site setout, before building starts,
- (b) placement of piers or foundation before placing footings, and steel reinforcing before pouring concrete,
- (c) framework of structure before lining or cladding is fixed,
- (d) stormwater drainage and on-site detention before backfilling,
- (e) wet areas treated before lining or tiling.

3 Hours of work

Any building work must be carried out between 7.00 am and 6.00 pm on Monday to Friday and 8.00 am to 5.00 pm on Saturday, but not on Sundays or public holidays.

4 Survey certificate

A survey certificate must be given to the principal certifying authority at the following stages—

- (a) on completion of the floor slab framework before concrete is poured, detailing the location of the structure to the boundaries,
- (b) at completion of the lowest floor, confirming that levels are in accordance with the certificate (and the levels must relate to the datum shown on the certificate).

Schedule 6 Exempt development

(Section 6.6)

The development listed in this Schedule is exempt development, but only if any structure erected or altered as a consequence of the development—

- (a) will comply with the deemed-to-satisfy provisions of the *Building Code of Australia*, and
- (b) will not obstruct drainage of the site, and
- (c) will not restrict any vehicular or pedestrian access to or from the site, and
- (d) will be at least 1 metre from any easement or public sewer main, and
- (e) will not require a tree to be removed, and
- (f) will comply with the recommendations of the Green and Golden Bell Frog management plan and the wetlands environmental management plan.

1 Advertising structures and displays

Erection of an advertising structure and display of an advertisement on it, or the display of an advertisement that is not on an advertising structure, in any of the following cases—

- (a) The advertisement and any structure are not visible from outside the site on which they are displayed.
- (b) The advertisement is behind the glass line of a shop window.
- (c) The advertisement is a temporary advertisement for a social, cultural or recreational event that is displayed no more than 28 days before the event and is removed within 14 days after the event.
- (d) The advertisement is a public notice displayed by a public authority giving information about a service.
- (e) The advertisement is a real estate sign advertising that the premises on which it is displayed are for sale or lease, and the advertisement and any structure together have a maximum area of 4.5 square metres in the Trade and Technology Zone.
- (f) The advertisement replaces one lawfully displayed on the same structure.
- (g) The advertisement displays a message relating to the premises on which it is situated and the advertisement and the structure (if any) together have a maximum area of—

- (i) 30% of the front elevation of any building on which it is displayed in the Trade and Technology Zone, and
- (ii) a maximum height of either 4.6 metres above ground level or the height of a first floor window sill and, if suspended from an awning along a public road, the advertisement is not lower than 2.6 metres above ground level.

2 Ancillary development

Development (such as landscaping, gardening, paving or the erection of minor structures) that is ordinarily incidental or ancillary either to a use allowed by a development consent or to a lawful existing use (as defined in section 106 of the Act), but only if—

- (a) any ancillary structure is erected at least 1 metre from each boundary of the site and extends no more than 3 metres above natural ground level, and
- (b) any ancillary structure, paving or hard surface area covers not more than 25 square metres, and
- (c) the development does not involve excavation beyond 600 millimetres below natural ground level, and
- (d) it does not involve handling, storing or using hazardous chemicals or materials and does not release hazardous chemicals or any pollutants into the environment, and
- (e) it does not involve a display of an advertisement.

3 Demolition

Demolition, that is carried out in accordance with AS 2601—2001, *Demolition of structures*, of—

- (a) any structure the erection of which is identified as being exempt development by this Chapter, or
- (b) a structure covering an area of not more than 25 square metres.

4 Fences

Erection of boundary fences that comply with any relevant covenant and Council policy and—

- (a) are no more than 1.8 metres high if located behind the building line, but do not include any masonry construction over 900 millimetres above ground level, or
- (b) are no more than 900 millimetres high if forward of the building line.

5 Flagpoles

Erection of flagpoles not more than 6 metres high that are structurally adequate, but only

one per site.

Schedule 7 Heritage items

(Section 6.21 and Schedule 8)

212 West Botany Street, Banksia Lot 1, DP 514811

Market garden

Schedule 8 Dictionary for Chapter 6

(Section 6.5 (1))

Additional Permitted Uses Map means the map marked “[Sydney Regional Environmental Plan No 33—Cooks Cove—Additional Permitted Uses Map](#)”.

advanced technology business means research and development or a business or activity that consists of, or is directly related to, the carrying out of research into, the manufacture, improvement, production, processing, assembly, marketing or sale of, or the provision of information services about or of other product or administrative support services related to, any of the following—

- (a) electronic and micro-electronic systems, goods and components,
- (b) information technology, computer software or hardware,
- (c) instrumentation or instruments,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) telecommunications services, systems or components,
- (f) other goods, systems or components intended for use in science and technology,
- (g) advanced technology relating to the provision or distribution of energy,
- (h) technology promoting ecologically sustainable practices, such as remediation of land.

advertising structure has the same meaning as in the Act.

alter, in relation to a heritage item, means—

- (a) make structural changes to the outside of the heritage item, building or work,
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes resulting from the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

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](#).

club means a building or place that is used for the gathering of persons for social, literary, political, sporting, athletic or other lawful purposes and that is or is intended to be registered under the [Registered Clubs Act 1976](#).

commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this Dictionary or a building or place used for a land use elsewhere specifically defined in this Dictionary.

commercial support premises means a building or place used as an office or for other business or commercial purposes such as a bank, building society or other building or a place in which business-orientated support services, such as photocopying, office services and supplies are provided.

community facility means a building or place owned or controlled by the Council, a public authority or a religious organisation, or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community, and used for a community purpose or for the purposes of the organisation concerned.

complying development is identified in section 6.6.

conservation management plan means a document, approved by the New South Wales Heritage Council, including diagrams, establishing the heritage significance of a heritage item and identifying the conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

contaminated land has the same meaning as in Part 7A of the Act.

demolition, in relation to a heritage item, building, work, relic or place, means the damaging, defacing, destruction, pulling down or removal of a heritage item, building, work, relic or place, in whole or in part.

development has the same meaning as in the Act.

dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

educational establishment has the same meaning as in the standard instrument for a local environmental plan prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

exempt development is identified in section 6.6.

flood prone land means land that is susceptible to flooding by a 1% Annual Exceedance Probability flood event.

gross floor area means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the inner face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, but excluding—

- (a) columns, fin walls, shade devices, and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and associated plant rooms, and ancillary storage space and vertical air conditioning ducts, and
- (c) such car, coach and bicycle parking as is required to comply with any development control plan and any internal access to that parking, and

(d) space for the loading and unloading of goods, and any waste management areas, and

(e) common or public areas, including arcades and circulation space.

heritage impact statement means a statement which identifies the heritage significance of a heritage item or conservation area, assesses the impact that proposed development will have on this significance and details the measures proposed to minimise this impact.

heritage item means a building, work, relic, tree or place identified as a heritage item and described in Schedule 3.

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

hotel means premises, licensed under the [Liquor Act 1982](#) to sell liquor, that provide accommodation for guests which is rented or hired on a short-term basis without a residential tenancy agreement within the meaning of the [Residential Tenancies Act 1987](#).

kiosk means a structure used for the provision of food and drink for the refreshment of users of the open space in which it is situated. The use must not be the dominant use of the open space.

leasable floor space of a building means the gross floor area of the building, excluding public access areas such as arcades and amenities, general loading docks and car parking areas.

map means a map deposited in the office of the Department, a copy of which is deposited in the office of the Council.

master plan means a master plan adopted by the Minister under section 6.13.

medical centre means a building or place used for the purpose of providing professional health care services (including preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

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

motel means a building (other than a boarding house or serviced apartments) primarily used for the overnight accommodation of travellers and the vehicles used by them, whether or not the building is also used for the provision of meals to those travellers or the general public.

passenger transport terminal means any building or place used for the assembly and dispersal of passengers travelling by any form of passenger transport, and includes any facilities required for parking, manoeuvring, storage or routine servicing of any vehicle used to provide a passenger transport service.

place of assembly means a building or place used for functions, conferences, theatre, cinema, concerts, dances or any other similar thing, whether it is used for the purpose of gain or not, but does not include a place of public worship or an educational establishment.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, instruction or religious training.

public transport facility means a building or place used for the purpose of providing passenger transport facilities to the general public, whether or not those facilities are provided by a public authority.

public utility undertaking means any services or facilities carried on by, or under the authority of, any Commonwealth or State government department or agency, or pursuant to any Commonwealth or State Act, for the purpose of providing—

- (a) railway, light railway, road, water or air transport or facilities, or wharf or river services or facilities, or
- (b) sewerage or drainage services, or
- (c) water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities.

recreation area means—

- (a) a children's playground, or
 - (b) an area used for sporting activities, or
 - (c) an area used to provide for the physical, cultural or intellectual welfare of the community,
- but does not include racecourses or showgrounds.

recreation facility means a building or place used exclusively for sporting or leisure activities, whether operating for the purpose of gain or not.

remediation of land means—

- (a) removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or
- (b) eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals onto the land).

research and development means activities carried out on a commercial basis that are aimed at advancing scientific knowledge for the purpose of applying it in an industry or aimed at creating new or improved materials, products, devices, processes or services (or at both advancing scientific knowledge for that purpose and creating any of those things), but only if the activities concerned—

- (a) meet the research and development criteria of the Industry Research and Development Board of the Commonwealth for the purposes of a taxation concession under the [Income Tax Assessment Act 1936](#) of the Commonwealth, or
- (b) are being funded wholly or partly by a Commonwealth or State government research and development grant.

restaurant means a building or place used for the provision of food or drink (or both), whether or not for consumption on the premises, or for takeaway.

service station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products, whether or not the building or place is also used for one or more of the following purposes—

- (a) the hiring of trailers,
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles,
- (c) the washing and greasing of motor vehicles,
- (d) the repairing and servicing of motor vehicles (other than repairing or servicing involving body building, panel beating or spray painting).

serviced apartment means a self-contained dwelling (in a building containing three or more self-contained dwellings) which is cleaned or serviced by the owner or manager of the building (or the agent of the owner or manager), and which provides short-term accommodation for persons who have their principal place of residence elsewhere, but does not include a backpackers' hostel, boarding house, bed and breakfast establishment or private hotel.

shop means a building or place used for selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Dictionary.

storey means—

- (a) the space between two floors, or
- (b) the space between any floor and its ceiling or roof above, or
- (c) building foundation areas, garages, workshops, storerooms and the like, where the height between finished ground level and the top of the floor above is 1.5 metres or more.

A storey that exceeds 4 metres in height (otherwise than in an entry foyer or a part of the building used for exhibition space) is counted as two storeys, except in the case of a warehouse.

subdivision of land has the same meaning as in the Act.

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

the Cooks Cove site means the land to which this Chapter applies.

the Council means Rockdale City Council.

tourist facility means an establishment providing holiday accommodation, convention or exhibition facilities, or both, and may include—

- (a) hotels, motels or serviced apartments, and
- (b) conference, convention or trade exhibition facilities, and
- (c) restaurants and function rooms.

trade-related enterprise means a business or government activity directly related to the carrying

out of air, land or sea commerce, air passenger services or other trade, including the import or export of advanced technology goods or services, trade-related warehousing, customs agencies, freight forwarding, trade logistics and distribution, and time-sensitive goods processing.

wetlands means either naturally occurring or constructed areas that support wetland vegetation or fauna.

vehicle rental centre means a building or premises used to rent out vehicles and service those vehicles.

Zoning Map means the map marked “[Sydney Regional Environmental Plan No 33—Cooks Cove—Zoning Map](#)”.

Schedule 9 Heritage items

Appendix 8, section 2

Suburb	Item name	Address	Property description	Significance
Rozelle	Sewerage pumping station	Roberts Street	Lot 2, DP 1277236	Local
Rozelle	White Bay Power Station		Lot 380, DP 1277236	Local