

State Environmental Planning Policy (Industry and Employment) 2021

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New South Wales

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New South Wales

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State Environmental Planning Policy (Industry and Employment) 2021



New South Wales

Chapter 1 Preliminary

1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Industry and Employment) 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 Western Sydney employment area

Part 2.1 Preliminary

2.1 Aims of Chapter

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

2.2 Land to which Chapter applies

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

Note—

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

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

2.3 Definitions and notes

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

2.4 Consent authority

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

Note—

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

2.5 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.

2.6 Relationship to other environmental planning instruments

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

2.7 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development to be carried out in accordance with this Chapter or with a consent granted under the Act, an agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This section does not apply—
 - (a) to a covenant imposed by the relevant council or that the relevant council requires to be imposed, or
 - (b) to a biodiversity certification conferred under Part 8 of the *Biodiversity Conservation Act 2016*, or
 - (c) to a private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*, or
 - (d) to a relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or
 - (e) to the relevant provisions of a land management (native vegetation) code (and the necessary mandatory code compliant certificate) with respect to a set aside area under Part 5A of the *Local Land Services Act 2013*, or
 - (f) to a conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (g) to a property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and*

Transitional) Regulation 2017, or

(h) to a Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or

(i) to a planning agreement within the meaning of Division 7.1 of the Act.

(3) This section does not affect the rights or interests of a public authority under a registered instrument.

(4) Under section 3.16 of the Act, the Governor, before the making of this section, approved of subsections (1)–(3).

Part 2.2 Permitted or prohibited development

2.8 Land use zones

The land use zones under this Chapter are as follows—

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

2.9 Zoning of land to which Policy applies

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

2.10 Zone objectives and land use table

(1) The Table at the end of this section specifies for each zone—

- (a) the objectives for development, and
- (b) development that may be carried out without consent, and
- (c) development that may be carried out only with consent, and
- (d) development that is prohibited.

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

(3) In the Table at the end of this section—

- (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
- (b) a reference to a type of building or other thing does not include (despite any definition in this Chapter) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.

(4) This section is subject to the other provisions of this Chapter.

Land Use Table

Zone IN1 General Industrial

1 Objectives of zone

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

2 Permitted without consent

Nil.

3 Permitted with consent

Building identification signs; Business identification signs; Depots; Environmental facilities; Environmental protection works; Food and drink premises; Freight transport facilities; Garden centres; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Industries (other than offensive or hazardous industries); Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Roads;

Service stations; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres.

4 Prohibited

Any development not specified in item 2 or 3.

Zone IN2 Light Industrial

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities;

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

Zone E2 Environmental Conservation

1 Objectives of zone

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

2 Permitted without consent

Nil.

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3.

Zone SP2 Infrastructure

1 Objectives of zone

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

from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

Zone RE2 Private Recreation

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

2.11 Additional permitted uses for particular land

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

provision of this Chapter.

2.12 Subdivision—consent requirements

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

Note—

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

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

2.13 Centre-based child care facilities

Despite any other provision of this Chapter, except for section 2.36(4), a person may, with consent, carry out development for the purposes of a centre-based child care facility on land to which this Chapter applies.

2.14 Demolition requires development consent

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

Note—

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Chapter 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.

2.15 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).

2.16 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 2.3 Development control plans

2.17 Requirement for development control plans

- (1) Except in such cases as the Secretary may determine by notice in writing to the consent authority or as provided by section 2.18, the consent authority must not grant consent to development on any land to which this Chapter applies unless a development control plan has been prepared for that land.
- (2) The requirements specified in Schedule 2 apply in relation to any such development control plan.
- (3) For the purposes of section 3.44(3) of the Act, a development control plan that is required by this section may be prepared and submitted by 60% of the owners of the land to which the plan applies.
- (4) The Minister is authorised, for the purposes of section 3.44(5)(b) of the Act, to act in the place of the relevant planning authority in accordance with that section.
- (5) Without limiting subsection (2), if a development control plan is required to be prepared for part of a precinct only, the development control plan must—
 - (a) demonstrate the manner in which it integrates with planning for the whole of the precinct, and
 - (b) take into account any other development control plans applying to the precinct.
- (6) For the purposes of this section, a development control plan is taken to have been prepared for so much of the land to which this Chapter applies as is identified as the “Erskine Park Employment Area” under the *Penrith Development Control Plan 2006* (approved 21 August 2006 and as in force on 15 December 2006).

2.18 Existing precinct plans under SEPP 59

- (1) The consent authority may grant consent to development on any land to which this Chapter applies without a development control plan being prepared for that land if the consent authority is satisfied that an existing precinct plan applied to the land immediately before the repeal of *State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential*.
- (2) In determining a development application that relates to any land to which an existing precinct plan applies, the consent authority is to take the existing precinct plan into consideration.
- (3) In this section, **existing precinct plan** means any of the following Precinct plans prepared under *State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area* and in force as at the commencement of this Chapter—
 - (a) Lot 11 Precinct Plan (Blacktown LGA), approved October 2005,
 - (b) Eastern Creek Precinct Plan (Blacktown LGA), approved March 2004 (stages 1 and 2) and December 2005 (stage 3),
 - (c) Raceway Precinct Plan (Blacktown LGA), approved 15 November 2006,
 - (d) Greystanes Estate Employment Lands Precinct Plan, approved June 2001,
 - (e) Former CSIRO Site, Pemulway Employment Land Precinct Plan, approved 20 September 2005.

Note—

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

Part 2.4 Principal development standards

2.19 Ecologically sustainable development

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

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

2.20 Height of buildings

The consent authority must not grant consent to development on land to which this

Chapter applies unless it is satisfied that—

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

2.21 Rainwater harvesting

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

2.22 Development adjoining residential land

- (1) This section applies to any land to which this Chapter applies that is within 250 metres of land zoned primarily for residential purposes.
- (2) The consent authority must not grant consent to development on land to which this section applies unless it is satisfied that—
 - (a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and
 - (b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land, and
 - (c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and
 - (d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and
 - (e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like, and
 - (f) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and
 - (g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.

2.23 Development involving subdivision

The consent authority must not grant consent to the carrying out of development

involving the subdivision of land unless it has considered the following—

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

2.24 Public utility infrastructure

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

2.25 Development on or in vicinity of proposed transport infrastructure routes

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

2.26 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. 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—

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

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subsection (3).

(5), (6) (Repealed)

(7) This section does not allow consent to be granted for development that would contravene—

(a) a development standard for complying development, or

(b) section 2.29.

Part 2.5 Miscellaneous provisions

2.27 Relevant acquisition authority

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

Note—

If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant

authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

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

Type of land shown on Map	Authority of the State
Zone SP2 Infrastructure and marked "Classified road"	Transport for NSW
Zone SP2 Infrastructure and marked "Local Road"	Penrith City Council
Zone RE1 Public Recreation and marked "Local Open Space"	Penrith City Council

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

2.28 (Repealed)

2.29 Controls relating to miscellaneous permissible uses

- (1) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted under this Chapter, the retail floor area must not exceed—
- (a) 20% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
 - (b) 400 square metres,
- whichever is the lesser.
- (2) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Chapter, the retail floor area must not exceed 200 square metres.

2.30 Design principles

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

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

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

2.31 Preservation of trees or vegetation

- (1) The objective of this section is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This section applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this section by a development control plan made under Division 3.6 of the Act.

Note—

Any such development control plan may prescribe the trees or other vegetation to which this 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 Secretary as the relevant planning authority for the purposes of Division 3.6 of the Act.
- (4) This section does not apply to a tree or other vegetation that the relevant council or the Secretary (as the relevant planning authority for the purposes of Division 3.6 of the Act) is satisfied—
 - (a) is dying or dead and is not required as the habitat of native fauna, or
 - (b) is a risk to human life or property.
- (5) This 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) 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*.

2.32 Infrastructure development and use of existing buildings of the Crown

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

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

2.33 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—

(a) in the case of a boundary to land zoned E2 Environmental Conservation—20 metres, or

(b) in any other case—50 metres.

(3) This section does not apply to—

(aa) land identified as avoided land under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13, or

(a) land within the coastal zone, or

(b) land proposed to be developed for the purpose of sex services or restricted premises.

(4) Despite the provisions of this Chapter 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.

(5) The section does not prescribe a development standard that may be varied under this Chapter.

2.34 Development of land within or adjacent to transport investigation area

(1) Consent must not be granted to development in the area marked “Transport Investigation Areas A and B” on the [Land Zoning Map](#) that has an estimated development cost of more than \$200,000 without the concurrence of Transport for NSW.

(2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—

(a) the practicability and cost of carrying out transport projects on the land in the future, and

(b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, transport projects on the land in the future, and

(c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of transport projects on the land in the future, and

(d) in relation to Transport Investigation Area A—current or future development and operation of an intermodal terminal, including whether the development for which consent is sought is likely to impede access to or from an intermodal terminal.

(3) In this section—

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

2.35 Development within the Mamre Road Precinct

(1) Consent must not be granted to development on the land identified on the [Land Application Map](#) as Precinct 12 (Mamre Road) that has an estimated development cost of more than \$200,000 without the concurrence of Transport for NSW.

(2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—

(a) the compatibility of the proposed development with the delivery of an integrated freight network, including use of fire access roads and connection to the fire access roads of adjoining land, and

- (b) the operation of an integrated freight network, including whether the development is likely to impede access to or from the integrated freight network, and
- (c) the practicability and cost of carrying out transport projects on the land in the future.

(3) In this section—

integrated freight network means a network of transport corridors within the Mamre Road precinct that allow freight to be transported from an intermodal terminal (within the meaning of section 2.34) to development sites in the Mamre Road precinct.

2.36 Development in areas subject to aircraft noise

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

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

(2) This section applies to development—

- (a) on land that is—
 - (i) in the vicinity of the Airport and its flight paths, and
 - (ii) in either an ANEF contour of 20 or greater or an ANEC contour of 20 or greater, and
- (b) that the consent authority considers is likely to be adversely affected by aircraft noise.

(2A) Despite subsection (2), this section does not apply to development on land to which [State Environmental Planning Policy \(Precincts—Western Parkland City\) 2021](#), Chapter 4 applies.

(3) Before determining a development application for development to which this section applies, the consent authority—

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and

- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021:2015, and
 - (c) must be satisfied that the development will meet the indoor design sound levels set out in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.
- (4) Despite another provision of this Chapter, development consent must not be granted to development on land to which this section applies for the purposes of a place of public worship, a centre-based child care facility or a TAFE establishment or for residential development.
- (5) In this section—
- ANEC contour** means a contour on the Australian Noise Exposure Concept Map for the Airport, published on the Department’s website.
- ANEF contour** means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Airport prepared by the Department of the Commonwealth responsible for airports.
- AS 2021:2015** means AS 2021:2015, *Acoustics—Aircraft noise intrusion—Building siting and construction*.
- (6) For the purposes of this section, a reference to ANEF in AS 2021:2015 is taken to include a reference to ANEC.

2.37 Airspace operations

- (1) The objectives of this section are as follows—
- (a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development that penetrates the prescribed airspace for the Airport,
 - (b) to protect the community from undue risk from that operation.
- (2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the prescribed airspace, before granting development consent, the consent authority must consult with the relevant Commonwealth body about the application.
- (3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—
- (a) the development will penetrate the prescribed airspace but it has no objection to its construction, or
 - (b) the development will not penetrate the prescribed airspace.

(4) To avoid doubt, the consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be constructed.

(5) In this section—

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

prescribed airspace means the airspace—

(a) above any part of either an OLS or a PAN-OPS surface for the Airport, and

(b) declared under regulation 5 of the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth relating to the Airport, under section 181(1) of the *Airports Act 1996* of the Commonwealth.

relevant Commonwealth body means—

(a) the airport-operator company for the Airport (within the meaning of the *Airports Act 1996* of the Commonwealth), or

(b) if there is no airport-operator company for the Airport—the Secretary of the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the prescribed airspace.

2.38 Development of land adjacent to Airport

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

(a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development in close proximity to the Airport,

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

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

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

2.39 Water recycling and conservation

(1) This section applies to land—

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

- (b) that will be serviced by a water recycling facility as soon as the facility becomes operational.
- (2) A consent authority must not grant consent to the carrying out of development on land unless the consent authority is satisfied that recycled water from the water recycling facility will be provided to the development.
- (3) However, the consent authority may grant consent if it is satisfied that the development will be provided with recycled water from a water recycling or water conservation system approved by the Minister and specified in the Table to this section.

Table of approved systems

Note—

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

2.40 Earthworks

- (1) The objectives of this section are as follows—
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
 - (b) to allow earthworks of a minor nature without separate development consent.
- (2) Development consent is required for earthworks unless—
 - (a) the work is exempt development under this Chapter or another applicable environmental planning instrument, or
 - (b) the work is ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—
 - (a) the likely disruption of, or detrimental effect on, existing drainage patterns and soil stability in the locality,
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the proposed development on the existing and likely amenity of

adjoining properties,

- (e) the source of fill material and the destination of excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to and potential for adverse impacts on a waterway, drinking water catchment or environmentally sensitive area,
- (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
- (i) the proximity to and potential for adverse impacts on a heritage item, an archaeological site, or a heritage conservation area,
- (j) the visual impact of earthworks as viewed from the waterways.

Note 1—

The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

Note 2—

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

2.41 Development on flood prone land

- (1) This section applies to development requiring consent that is carried out on flood prone land.
- (2) Consent is not to be granted to the carrying out of development to which this section applies unless the consent authority has taken into consideration whether or not—
 - (a) the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (b) the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain, and
 - (c) the development will enable safe occupation of the flood prone land, and
 - (d) the development will detrimentally affect the floodplain environment or cause avoidable erosion, siltation, salinity, destruction of riparian vegetation or a reduction in the stability of the riverbank/watercourse, and
 - (e) the development will be likely to result in unsustainable social and economic costs

to the flood affected community or general community, as a consequence of flooding, and

- (f) the development is compatible with the flow conveyance function of the floodway, and
- (g) the development is compatible with the flood hazard, and
- (h) in the case of development consisting of the excavation or filling of land, the development—
 - (i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and
 - (ii) will adversely impact or alter flood behaviour.

Note—

Section 2.40 contains other matters that the consent authority must consider before granting development consent for earthworks.

2.42 Heritage conservation

Note—

Heritage items (if any) are listed and described in Schedule 3. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 3.

- (1) **Objectives** The objectives of this section are as follows—
 - (a) to conserve the environmental heritage of the Western Sydney Employment Area,
 - (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
 - (c) to conserve archaeological sites,
 - (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.
- (2) **Requirement for consent** Development consent is required for any of the following—
 - (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
 - (b) altering a heritage item that is a building by making structural changes to its

interior or by making changes to anything inside the item that is specified in Schedule 3 in relation to the item,

- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) **When consent not required** However, development consent under this 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 or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development—
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

- (c) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or
 - (d) the development is exempt development.
- (4) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this section in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subsection applies regardless of whether a heritage management document is prepared under subsection (5) or a heritage conservation management plan is submitted under subsection (6).
- (5) **Heritage assessment** The consent authority may, before granting consent to development—
- (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this section.
- (7) **Archaeological sites** The consent authority must, before granting consent under this section to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—
- (a) notify the Heritage Council of its intention to grant consent, and
 - (b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this section to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place and an Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration a response received within 28 days after the notice is sent.

(9) **Demolition of nominated State heritage items** The consent authority must, before granting consent under this section for the demolition of a nominated State heritage item—

(a) notify the Heritage Council about the application, and

(b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.

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

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

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

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

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

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

2.43 Consent for clearing native vegetation

(1) A person must not clear native vegetation on land in Zone C2 Environmental Conservation or Zone RE1 Public Recreation without development consent.

Note—

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

(2) Development consent under this section is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation caused by the clearing of the vegetation—

- (a) that there is no reasonable alternative available to the disturbance of the native vegetation,
 - (b) that any impact of the proposed clearing on biodiversity values is avoided or minimised,
 - (c) that the disturbance of the native vegetation will not increase salinity,
 - (d) that native vegetation inadvertently disturbed for the purposes of construction will be re-instated where possible on completion of construction,
 - (e) that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation,
 - (f) that the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.
- (3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land zoned E2 Environmental Conservation have regard to the objectives for development in that zone.
- (4) This section does not apply to or in respect of action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993*, the *Surveying and Spatial Information Act 2002* or the *Sydney Water Act 1994*.
- (5) Subsections (1) and (2) do not apply to land identified as avoided land under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13.

2.44 Stormwater, water quality and water sensitive design

- (1) The objective of this section is to avoid or minimise the adverse impacts of stormwater on the land on which development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems.
- (2) Before granting development consent to development on land to which this Chapter applies, the consent authority must take into consideration whether—
- (a) water sensitive design principles are incorporated into the design of the development, and
 - (b) riparian, stormwater and flooding measures are integrated, and
 - (c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and

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

2.45 Savings provisions

- (1) Except for section 2.28, this Chapter does not apply to or in respect of a development application (including a staged development application) made (but not finally determined) before the commencement of this Chapter.
- (2) Except for the amendment made to section 12 and subject to subsection (3), the amendments to this Chapter made by [State Environmental Planning Policy \(Western Sydney Employment Area\) Amendment 2020](#) do not apply to or in respect of a development application (including a staged development application) made (but not finally determined) before the commencement of [State Environmental Planning Policy](#)

(Western Sydney Employment Area) Amendment 2020.

- (3) The amendments to this Chapter made by *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020* apply to or in respect of a development application (including a staged development application) relating to development on the land identified on the [Land Application Map](#) as Precinct 12 (Mamre Road) made (but not finally determined) before the commencement of *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020*.
- (4) The amendments made to this Chapter by *State Environmental Planning Policy (Biodiversity and Conservation) Amendment (Strategic Conservation Planning) 2022* do not apply to a development application made, and not finally determined, before the commencement of that Policy.
- (5) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.
- (6) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

Chapter 3 Advertising and signage

Part 3.1 Preliminary

3.1 Aims, objectives etc

- (1) This Chapter aims—
 - (a) to ensure that signage (including advertising)—
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high quality design and finish, and
 - (b) to regulate signage (but not content) under Part 4 of the Act, and
 - (c) to provide time-limited consents for the display of certain advertisements, and
 - (d) to regulate the display of advertisements in transport corridors, and
 - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.
- (2) This Chapter does not regulate the content of signage and does not require consent

for a change in the content of signage.

3.2 Definitions

(1) In this Chapter—

advertisement means signage to which Part 3.3 applies and includes any advertising structure for the advertisement.

advertising display area means, subject to subsection (2), the area of an advertisement or advertising structure used for signage, and includes any borders of, or surrounds to, the advertisement or advertising structure, but does not include safety devices, platforms or lighting devices associated with advertisements or advertising structures.

advertising industry means the Outdoor Media Association and includes, in relation to a locality, a body that represents businesses that manage advertising in the locality.

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

associated road use land, in relation to a road, means—

- (a) land on which road infrastructure associated with the road is located, or
- (b) land that is owned, occupied or managed by the roads authority for the road and that is used for road purposes or associated purposes (such as administration, workshop and maintenance facilities, bus interchanges and roadside landscaping).

building identification sign has the same meaning as in the Standard Instrument.

building wrap advertisement means an advertisement used in association with the covering or wrapping of—

- (a) a building or land, or
 - (b) a building that is under construction, renovation, restoration or demolition,
- but does not include a wall advertisement.

business identification sign has the same meaning as in the Standard Instrument.

classified road means a road classified under Part 5 of the [Roads Act 1993](#).

consent authority means the consent authority determined in accordance with section 3.10.

display includes the erection of a structure for the purposes of display and the use of land, or a building on land, for the purposes of display.

freestanding advertisement means an advertisement that is displayed on an advertising structure that is mounted on the ground on one or more supports.

Guidelines means the provisions of the publication titled *Transport Corridor Outdoor Advertising and Signage Guidelines* approved by the Minister for the purposes of this Chapter and published in the Gazette on the date on which [State Environmental Planning Policy No 64—Advertising and Signage \(Amendment No 3\)](#) is published on the NSW legislation website.

Editorial note—

For guidelines published under this definition see Gazette 127 of 29.11.2017, p 7325.

Mount Panorama Precinct means the land shown edged heavy black on the map marked “*State Environmental Planning Policy No 64—Advertising and Signage (Amendment No 1)*” deposited in the principal office of the Department of Planning.

navigable waters has the same meaning as in the [Marine Safety Act 1998](#).

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

product image means any words, letters, symbols or images that identify a product or corporate body, but does not include any object to which the words, letters, symbols or images are attached or appended.

public art policy means a policy adopted by a consent authority, in a development control plan or otherwise, that establishes forms and locations for art works in the public domain.

RailCorp means Rail Corporation New South Wales constituted under the [Transport Administration Act 1988](#).

railway corridor means the following land—

- (a) land on which railway track and associated railway infrastructure is located (including stations and platforms),
- (b) land that is adjacent to land referred to in paragraph (a) and that is owned, occupied or managed by RailCorp or Sydney Metro and used for railway purposes or associated purposes (such as administration, workshop and maintenance facilities and bus interchanges),
- (c) land zoned for railway (including railway corridor) purposes under an environmental planning instrument,
- (d) land identified as a railway corridor in an approval of a transitional Part 3A project (within the meaning of Schedule 6A to the Act), an approval to carry out State significant infrastructure or a development consent given by the Minister.

road corridor means the following land—

- (a) land comprising a classified road or a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, and associated road use land that is adjacent to such a road,
- (b) land zoned for road purposes under an environmental planning instrument,
- (c) land identified as a road corridor in an approval of a transitional Part 3A project (within the meaning of Schedule 6A to the Act), an approval to carry out State significant infrastructure or a development consent given by the Minister.

roof or sky advertisement means an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.

signage means all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes—

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements to which Part 3.3 applies,

but does not include traffic signs or traffic control facilities.

special promotional advertisement means an advertisement for an activity or event of a civic or community nature, but does not include a wall advertisement.

Standard Instrument means the standard instrument set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

Sydney Trains means Sydney Trains constituted under the [Transport Administration Act 1988](#).

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

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

transport corridor land means the following land—

- (a) land comprising a railway corridor,
- (b) land comprising a road corridor,
- (c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by TfNSW, Sydney Metro or RailCorp.

wall advertisement means an advertisement that is painted on or fixed flat to the wall of a building, but does not include a special promotional advertisement or building wrap advertisement.

Note—

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

- (2) The advertising display area of an advertising structure that contains advertising on two or more sides is to be calculated separately for each side and is not the sum of the display areas on all sides.
- (3) In this Chapter, a reference to a zone, in relation to an environmental planning instrument, is a reference to an area, reserve or zone (within the meaning of the instrument) identified in the instrument by the words or expressions used in this Chapter to describe the zone or by like descriptions or by descriptions that incorporate any of those words or expressions.
- (4) Notes in this Chapter do not form part of it.

3.3 Area of application of this Chapter

- (1) This Chapter applies to the whole of the State.
- (2) Without limiting subsection (1), this Chapter applies to all land and structures within the State and all vessels on navigable waters.
- (3) Despite subsection (1), this Chapter does not apply to the following land—

Land to which *State Environmental Planning Policy (Precincts—Regional) 2021*, Chapter 4 applies

Land to which *State Environmental Planning Policy (Western Sydney Parklands) 2009* applies

3.4 Signage to which this Chapter applies

- (1) This Chapter applies to all signage that—
 - (a) can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and
 - (b) is visible from any public place or public reserve,except as provided by this Chapter.

Note—

Public place and **public reserve** are defined in section 4(1) of the Act to have the same meanings as in the *Local Government Act 1993*.

- (2) This Chapter does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Chapter.

3.5 Relationship with other environmental planning instruments

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.

Note—

This Chapter will have the effect of modifying, and having paramountcy over, the provisions of some other environmental planning instruments that permit the display of signage with or without development consent. This is particularly so in the case of large advertisements, being advertisements of the kind referred to in Part 3.3. This Chapter (other than section 3.14) will not override a prohibition on the display of signage that is contained in another environmental planning instrument. Because of some provisions, such as sections 3.8 and 3.19, it may add prohibitions on advertising if the advertising is proposed to be displayed in certain circumstances, such as on environmentally sensitive or environmentally significant land or in the form of a roof or sky advertisement.

Part 3.2 Signage generally

3.6 Granting of consent to signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

Part 3.3 Advertisements

Division 1 General

3.7 Advertisements to which this Part applies

- (1) This Part applies to all signage to which this Chapter applies, other than the following—
- (a) business identification signs,
 - (b) building identification signs,
 - (c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,
 - (d) signage on vehicles.

- (2) Despite subsection (1)(d), section 3.26 applies to signage on a trailer (within the meaning of the *Road Transport Act 2013*).

3.8 Prohibited advertisements

- (1) Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions—

environmentally sensitive area

heritage area (excluding railway stations)

natural or other conservation area

open space

waterway

residential (but not including a mixed residential and business zone, or similar zones)

scenic protection area

national park

nature reserve

- (2) This section does not apply to the following—

(a) the Mount Panorama Precinct,

(b) the display of an advertisement at a public sporting facility situated on land zoned public recreation under an environmental planning instrument, being an advertisement that provides information about the sponsors of the teams or organisations using the sporting facility or about the products of those sponsors.

Division 2 Control of advertisements

3.9 Requirement for consent

A person must not display an advertisement, except with the consent of the consent authority or except as otherwise provided by this Chapter.

3.10 Consent authority

For the purposes of this Chapter, the consent authority is—

- (a) the council of a local government area in the case of an advertisement displayed in the local government area (unless paragraph (c), (d) or (e) applies), or

- (b) TfNSW in the case of an advertisement displayed on a vessel, or
- (c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW on a railway corridor, or
- (d) the Minister for Planning in the case of an advertisement displayed by or on behalf of RMS on—
 - (i) a road that is a freeway or tollway (under the [Roads Act 1993](#)) or associated road use land that is adjacent to such a road, or
 - (ii) a bridge constructed by or on behalf of TfNSW on any road corridor, or
 - (iii) land that is owned, occupied or managed by TfNSW, or
- (e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.

3.11 Matters for consideration

- (1) A consent authority (other than in a case to which subsection (2) applies) must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—
 - (a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
 - (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
 - (c) satisfies any other relevant requirements of this Chapter.
- (2) If the Minister for Planning is the consent authority or section 3.16 or 3.22 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—
 - (a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
 - (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of—
 - (i) design, and
 - (ii) road safety, and

(iii) the public benefits to be provided in connection with the display of the advertisement, and

(c) satisfies any other relevant requirements of this Chapter.

(3) In addition, if section 3.16 or 3.22 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.

3.12 Duration of consents

(1) A consent granted under this Part ceases to be in force—

(a) on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or

(b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.

(2) The consent authority may specify a period of less than 15 years only if—

(a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or

(b) the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or

(c) the specification of a lesser period is required by another provision of this Chapter.

Division 3 Particular advertisements

3.13 Advertisements on rural or non-urban land

(1) This section applies to land that, under an environmental planning instrument, is within a rural or non-urban zone and on which an advertisement may be displayed with the consent of the consent authority.

(2) Except in a case to which subsection (3) applies, the consent authority must not grant consent to display an advertisement on land to which this section applies—

(a) unless a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct in consultation with—

- (i) the advertising industry and any body that is representative of local businesses, such as a chamber of commerce, and
- (ii) if the land to which the development control plan relates is within 250 metres of a classified road, TfNSW,

and the display of the advertisement is consistent with the development control plan, or

(b) if no such development control plan is in force, unless—

- (i) the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and
- (ii) specifies one or more of the following particulars—
 - (A) the purpose for which the land or premises is or are used,
 - (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
 - (C) a description of an occupation or business referred to in sub-subparagraph (B),
 - (D) particulars of the goods or services dealt with or provided on the land or premises, or

(c) if no such development control plan is in force, unless the advertisement is a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest.

(3) In the case of an application to display an advertisement on transport corridor land when the Minister is the consent authority, the consent authority must not grant consent to display an advertisement on land to which this section applies unless the consent authority is satisfied that the advertisement is consistent with the Guidelines.

(4) Section 3.13(2)(a)(ii) is repealed at the end of 30 June 2023.

3.14 Transport corridor land

- (1) Despite section 3.8(1) and the provisions of any other environmental planning instrument, the display of an advertisement on transport corridor land is permissible with development consent in the following cases—
 - (a) the display of an advertisement by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW on a railway corridor,
 - (b) the display of an advertisement by or on behalf of TfNSW on—

- (i) a road that is a freeway or tollway (under the *Roads Act 1993*) or associated road use land that is adjacent to such a road, or
 - (ii) a bridge constructed by or on behalf of TfNSW on any road corridor, or
 - (iii) land that is owned, occupied or managed by TfNSW and that is within 250 metres of a classified road,
- (c) the display of an advertisement on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.
- (2) Before determining an application for consent to the display of an advertisement in such a case, the Minister for Planning may appoint a design review panel to provide advice to the Minister concerning the design quality of the proposed advertisement.
- (3) The Minister must not grant consent to the display of an advertisement in such a case unless—
- (a) the advice of any design review panel appointed by the Minister has been considered by the Minister, and
 - (b) the Minister is satisfied that the advertisement is consistent with the Guidelines.
- (4) This section does not apply to the display of an advertisement if the Minister determines that display of the advertisement is not compatible with surrounding land use, taking into consideration any relevant provisions of the Guidelines.

3.15 Advertisements with display area greater than 20 square metres or higher than 8 metres above ground

- (1) This section applies to an advertisement—
- (a) that has a display area greater than 20 square metres, or
 - (b) that is higher than 8 metres above the ground.
- (2) The consent authority must not grant consent to an application to display an advertisement to which this section applies unless—
- (a) the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
 - (b) the consent authority gave a copy of the application to TfNSW before the application is exhibited if the application is an application for the display of an advertisement to which section 3.16 applies.

3.16 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road

- (1) This section applies to the display of an advertisement to which section 3.15 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.
- (2) The consent authority must not grant development consent to the display of an advertisement to which this section applies without the concurrence of TfNSW.
- (3) In deciding whether or not concurrence should be granted, TfNSW must take into consideration—
 - (a) the impact of the display of the advertisement on traffic safety, and
 - (b) the Guidelines.
- (4) If TfNSW has not informed the consent authority within 21 days after the copy of the application is given to it under section 3.15(2)(b) that it has granted, or has declined to grant, its concurrence, TfNSW is taken to have granted its concurrence.
- (5) Nothing in this section affects section 3.14.
- (6) This section does not apply when the Minister for Planning is the consent authority.

3.17 Advertising display area greater than 45 square metres

The consent authority must not grant consent to the display of an advertisement with an advertising display area greater than 45 square metres unless—

- (a) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct, or
- (b) in the case of the display of an advertisement on transport corridor land, the consent authority is satisfied that the advertisement is consistent with the Guidelines.

3.18 Location of certain names and logos

- (1) The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.
- (2) If the advertising display area has no border or surrounds, any such name or logo is to be located—
 - (a) within the advertisement, or
 - (b) within a strip below the advertisement that extends for the full width of the advertisement.
- (3) The area of any such name or logo must not be greater than 0.25 square metres.

- (4) The area of any such strip is to be included in calculating the size of the advertising display area.

3.19 Roof or sky advertisements

- (1) The consent authority may grant consent to a roof or sky advertisement only if—
- (a) the consent authority is satisfied—
 - (i) that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or
 - (ii) that the advertisement improves the finish and appearance of the building and the streetscape, and
 - (b) the advertisement—
 - (i) is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and
 - (ii) is no wider than any such part, and
 - (c) a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.
- (2) A consent granted under this section ceases to be in force—
- (a) on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or
 - (b) if a lesser period is specified by the consent authority, on the expiration of the lesser period.
- (3) The consent authority may specify a period of less than 10 years only if—
- (a) before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or
 - (b) the area is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed roof or sky advertisement would be inconsistent with that change.

3.20 Wall advertisements

- (1) Only one wall advertisement may be displayed per building elevation.
- (2) The consent authority may grant consent to a wall advertisement only if—
 - (a) the consent authority is satisfied that the advertisement is integrated with the design of the building on which it is to be displayed, and
 - (b) for a building having—
 - (i) an above ground elevation of 200 square metres or more—the advertisement does not exceed 10% of the above ground elevation, and
 - (ii) an above ground elevation of more than 100 square metres but less than 200 square metres—the advertisement does not exceed 20 square metres, and
 - (iii) an above ground elevation of 100 square metres or less—the advertisement does not exceed 20% of the above ground elevation, and
 - (c) the advertisement does not protrude more than 300 millimetres from the wall, unless occupational health and safety standards require a greater protrusion, and
 - (d) the advertisement does not protrude above the parapet or eaves, and
 - (e) the advertisement does not extend over a window or other opening, and
 - (f) the advertisement does not obscure significant architectural elements of the building, and
 - (g) a building identification sign or business identification sign is not displayed on the building elevation.
- (2A) In the case of the display of a wall advertisement on transport corridor land, subsection (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.
- (3) In this section, **building elevation** means an elevation of a building as commonly shown on building plans.

3.21 Freestanding advertisements

- (1) The consent authority may grant consent to the display of a freestanding advertisement only if the advertising structure on which the advertisement is displayed does not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.
- (2) This section does not prevent the consent authority, in the case of a freestanding

advertisement on land within a rural or non-urban zone, from granting consent to the display of the advertisement under section 3.13.

3.22 Advertisements on bridges

- (1) A person may, with the consent of the consent authority, display an advertisement on a bridge.
- (2) The consent authority may grant consent only if the consent authority is satisfied that the advertisement is consistent with the Guidelines.

3.23 Special promotional advertisements

- (1) A person may, with the consent of the consent authority, display a special promotional advertisement on land zoned for business, commercial or industrial purposes.
- (2) The consent authority may grant consent only if—
 - (a) a development control plan applies to the land on which the special promotional advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and
 - (b) the display of the advertisement is limited in time to a total of 3 months in any 12-month period, and
 - (c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.
- (3) A special promotional advertisement may cover the entire facade or hoarding of a building or site, subject to this section.

3.24 Building wrap advertisements

- (1) A person may, with the consent of the consent authority, display a building wrap advertisement on land zoned for business, commercial or industrial purposes.
- (2) The consent authority may grant consent only if—
 - (a) a development control plan applies to the land on which the building wrap advertisement is to be displayed that has been made having regard to a public art policy of the consent authority and the display of the advertisement is consistent with the development control plan, and
 - (b) the display of the advertisement is limited in time to a maximum of 12 months, and

(c) any product image or corporate branding does not occupy more than 5% of the advertising display area and accords with the public art policy of the consent authority.

(2A) In the case of the display of a building wrap advertisement on transport corridor land, subsection (2) does not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the Guidelines.

(3) A building wrap advertisement may cover the entire facade or hoarding of a building or site, subject to this section.

3.25 Advertisements within navigable waters

(1) An advertisement within any navigable waters is prohibited, except an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(2) A person may, with the consent of the consent authority, display an advertisement on a vessel that is ancillary to the dominant purpose of the vessel.

(3) In this section, **vessel** means any ship, lighter, barge, boat, raft or craft, and any floating object or apparatus used wholly or in part for the conveyance of persons or things by water, of whatever description and however navigated, and includes amphibious vessels, seaplanes, hydroplanes, hydrofoils, hovercraft, sunken or stranded vessels, and the wreck or remains of any vessel.

3.26 Advertisements on trailers parked on (or visible from) roads or road related areas

(1) A person must not display an advertisement on a trailer parked on a road or road related area.

(2) A person must not display an advertisement on a trailer parked on land other than a road or road related area, but visible from a road or road related area, except with the consent of the consent authority.

(3) Subsections (1) and (2) do not apply to—

(a) an advertisement that is ancillary to the dominant purpose of the trailer, or

(b) an advertisement on a trailer parked by or on behalf of a public authority in the exercise of its functions.

(4) In this section, **road**, **road related area** and **trailer** have the same meanings as in the [Road Transport Act 2013](#).

3.27 Application of provisions of this Division

If more than one provision of this Division is capable of applying to the display of an advertisement, each such provision applies.

Note—

It may be, for example, that section 3.17 will apply to the display of an advertisement in addition to sections 3.15 and 3.16, or that section 3.21 will apply in addition to section 3.15, 3.16 or 3.17.

Part 3.4 Miscellaneous

3.28 Advertising design analysis

- (1) A council, in preparing an advertising design analysis for an area or locality for the purposes of section 3.13, 3.17 or 3.19, is to include an analysis of the following—
 - (a) the existing character of the area or locality, including built forms and landscapes,
 - (b) the key positive features of the existing character of the area or locality,
 - (c) the desired future character of the area or locality,
 - (d) the role of outdoor advertising.
- (2) In undertaking an advertising design analysis (not being an advertising design analysis referred to in section 3.13(2)(a)), the council must consult with the advertising industry and local businesses.

3.29 Consultation with TfNSW

- (1) In the preparation of a draft local environmental plan under Division 4 of Part 3 of the Act that makes provision for or with respect to signage or advertising to which this Chapter applies within 250 metres of a classified road, a council should consult with TfNSW.
- (2) This section is repealed at the end of 30 June 2023.

3.30 Exempt development

- (1) **Advertisements on transport corridor land** The following development on transport corridor land is exempt development when carried out by or on behalf of RailCorp, NSW Trains, Sydney Trains, Sydney Metro or TfNSW—
 - (a) display of an advertisement in an underground railway station or railway tunnel,
 - (b) display of an advertisement at a railway station or bus station if the advertisement is visible primarily from within the railway corridor or bus station,
 - (c) removal of existing signage,
 - (d) modifications to existing signage on transport corridor land carried out to meet occupational health and safety requirements and that do not increase the advertising display area of the signage.

3.31 Review of Policy

The Minister must ensure that the provisions of this Chapter are reviewed—

- (a) as soon as practicable after the first anniversary of the commencement of [State Environmental Planning Policy No 64—Advertising and Signage \(Amendment No 2\)](#), and
- (b) at least every 5 years thereafter.

3.32 Savings for draft local environmental plans not yet completed by 30 June 2023

Section 3.29, as in force at the beginning of 30 June 2023, continues to apply to a draft local environmental plan started but not completed by that date.

Schedule 1 Additional permitted uses

section 2.11

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

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

2 Precinct 4 (the Raceway Precinct)

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

3 Certain land at Erskine Park and Horsley Park

- (1) This section applies to certain land at Erskine Park and Horsley Park, shown as “Proposed Gas Pipeline alignment” on the [Additional Permitted Uses Map](#), being parts of the following—
 - (a) Lot 4, DP 1094504,
 - (b) Lot 103, DP 1143935,
 - (c) Crown Land identified as James Erskine Drive,
 - (d) Lot 6, DP 1124329,

(e) Lot 11, DP 1178389,

(f) Lot 21, DP 1173181.

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

Schedule 2 Requirements relating to preparation and content of development control plans

section 2.17(2)

1 General matters

(1) A development control plan must make provision for or with respect to the following matters—

(a) traffic, parking and key access points,

(b) infrastructure services (including public transport),

(c) a detailed staging plan for any proposed development,

(d) biodiversity,

(e) flooding,

(f) urban design and landscaping,

(g) subdivision layout,

(h) heritage conservation (both indigenous and non-indigenous),

(i) extraction and rehabilitation,

(j) protection of the Sydney Catchment Authority Warragamba Pipelines,

(k) protection of electricity transmission facilities,

(l) management of the public domain,

(m) community and retail facilities.

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

2 Traffic, parking and key access points

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

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

3 Infrastructure services

- (1) In making provision for or with respect to infrastructure services, a development control plan must address the following—
 - (a) services such as water, sewerage, drainage and stormwater,
 - (b) opportunities for rainwater harvesting from roofs,
 - (c) corridors for telephone, electricity and gas supply.
- (2) Stormwater management systems should be in accordance with relevant council and State government stormwater management plans and policies.
- (3) The development control plan must also—
 - (a) consider options for shared infrastructure corridors, and
 - (b) contain appropriate on-site design and control measures to be implemented to ensure that the water quality of the receiving environment is not adversely affected by the proposed development, and
 - (c) address the timing, funding and provision of the services.

4 Biodiversity

- (1) In making provision for or with respect to biodiversity, a development control plan must address the following—
 - (a) the existing natural environment, including any remnant vegetation, threatened species, endangered ecological communities, critical habitat, wildlife corridors and riparian areas,
 - (b) opportunities to offset the impact of any clearing of native vegetation,
 - (c) species or kinds of trees or other vegetation to which section 2.31 applies.
- (2) Where appropriate, the development control plan must provide for the preparation of management plans for the rehabilitation of any communities of flora and fauna so that

ecosystem diversity is maintained.

5 Flooding

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

Flood Risk Management Manual means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

6 Urban design and landscaping

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

- (a) include urban design principles drawn from an analysis of the site and its context, and
- (b) develop urban design parameters to guide subsequent development with measures, including setbacks, building materials and colours, to minimise the visual impact of development, particularly if it is highly visible from major roads and the M7 and M4 Motorways,
- (c) identify areas of high visibility and consider options such as vegetation screens or landmark buildings of outstanding design.

7 Subdivision layout

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

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

8 Heritage conservation

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

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

Schedule 3 Environmental heritage

section 2.42

Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Eastern Creek	Southridge	1 Southridge Road	Lot 1551, DP 1180982	Local	I1
Kemps Creek	Brick farmhouse	282 Aldington Road	Lot 142, DP 1033686	Local	I4
Kemps Creek	Gateposts to Colesbrook	269-285 Mamre Road	Lot 8, DP 253503	Local	I3
Kemps Creek	"Bayley Park", house	919-929 Mamre Road	Lot 35, DP 258414	Local	I2
Prospect	Great Western Highway (former alignment)	Reservoir Road/ Tarlinton Place/ Yallock Place/ Honeman Close		State	I60

Schedule 4 Dictionary for Chapter 2

section 2.3(1)

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

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

biodiversity means biological diversity.

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

Note—

The term is defined as follows—

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

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

building has the same meaning as in the Act.

Note—

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

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

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

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

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

estimated development cost has the same meaning as in the [Environmental Planning and Assessment Regulation 2021](#).

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

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

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

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

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

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

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

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

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

(b) the location and nature of which is described in Schedule 5,

and includes heritage items situated on or within that area.

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

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

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

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

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

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

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

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

(a) the construction, operation and decommissioning of associated works, and

(b) the rehabilitation of land affected by mining.

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a

post office, bank or dry cleaning, but does not include restricted premises.

Note—

See section 2.29 for controls relating to the retail floor area.

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

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

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

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

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

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

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

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

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

Schedule 5 Assessment criteria

sections 3.6, 3.11 and 3.15

1 Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

2 Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

3 Views and vistas

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

4 Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

5 Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

6 Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

7 Illumination

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?

- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

8 Safety

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Schedule 6 (Repealed)