



New South Wales

# **State Environmental Planning Policy (Western Sydney Aerotropolis) 2020**

under the

**Environmental Planning and Assessment Act 1979**

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

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## State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020*.

#### 2 Commencement

This Policy commences on 1 October 2020 and is required to be published on the NSW legislation website.

#### 3 Aims of Policy

The aims of this Policy are as follows—

- (a) to facilitate development in the Western Sydney Aerotropolis in accordance with the objectives and principles of the Western Sydney Aerotropolis Plan,
- (b) to promote sustainable, orderly and transformational development in the Western Sydney Aerotropolis,
- (c) to ensure development is compatible with the long-term growth and development of the Western Sydney Airport (including in relation to the operation of the Airport 24 hours a day) and other critical transport infrastructure,
- (d) to promote employment and world-class innovation and provide for residential development in suitable locations,
- (e) to recognise the physical and cultural connection of the local Aboriginal community to the land and to incorporate local Aboriginal knowledge, culture and tradition into development,
- (f) to preserve land for future infrastructure development,
- (g) to protect, maintain and enhance, and to minimise the impact of development on, trees and vegetation, soil quality and the health of waterways and to contribute to the conservation of biodiversity,
- (h) to recognise and protect the ecological and cultural value of Wianamatta–South Creek.

#### 4 Definitions

- (1) The Dictionary defines words used in this Policy.

**Note.** The *Environment Planning and Assessment Act 1979* and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

- (2) Words used in this Policy have the same meanings as in the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless otherwise defined in this Policy.

#### **5 Land to which Policy applies**

- (1) This Policy applies to land shown on the Land Application Map.
- (2) Clause 42 and Part 7, Division 4 also apply to the Western Sydney Aerotropolis.
- (3) Part 3 and clause 29 also apply to land that surrounds—
- (a) land shown on the Land Application Map, and
  - (b) the Western Sydney Aerotropolis.

**Note 1.** The Western Sydney Aerotropolis comprises 9 precincts—Aerotropolis Core, Northern Gateway, Wianamatta–South Creek, Badgerys Creek, Agribusiness, Dwyer Road, Kemps Creek, North Luddenham and Rossmore. On the commencement of this Policy, the Land Application Map will include Aerotropolis Core, Northern Gateway, Wianamatta–South Creek, Badgerys Creek and Agribusiness precincts only.

**Note 2.** Part 3 contains development controls that relate to Airport safeguards and clause 29 relates to transport corridors. The provisions apply to surrounding land that—

- (a) is shown on maps referred to in the provisions, and
- (b) extends to up to 30 kilometres from the Airport.

#### **6 Relationship with other environmental planning instruments generally**

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) A local environmental plan does not apply to land shown on the Land Application Map.

#### **7 Application of State Environmental Planning Policy (Infrastructure) 2007**

- (1) The Infrastructure SEPP applies to land shown on the Land Application Map, subject to the modifications set out in this clause.
- (2) Part 3, Division 4 of the Infrastructure SEPP does not apply to land in the 3 kilometre zone on the Wind Turbines Map under clause 22 of this Policy.
- (3) Development specified in clause 65(3)(a)(iv) of the Infrastructure SEPP may be carried out by or on behalf of a council under that clause only if the lighting will not adversely affect the safe operation of the Airport.
- (4) Part 3, Division 18A of the Infrastructure SEPP does not apply to land shown on the Land Application Map.
- (5) Development specified in clause 116A of the Infrastructure SEPP is complying development only if it is carried out by or on behalf of a public authority or carrier.
- (6) In this clause—

**Infrastructure SEPP** means *State Environmental Planning Policy (Infrastructure) 2007*.

#### **8 Application of State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

- (1) Land in the South West Growth Centre under the Growth Centres SEPP does not cease to be in the Growth Centre merely because it is shown on the Land Application Map under this Policy.

- (2) However, clauses 16 and 17 of the Growth Centres SEPP do not apply to land in the South West Growth Centre.
- (3) Part 3 of the Growth Centres SEPP applies to the land shown as “Public Recreation—Regional” on the Key Sites Map as if the land was not in the Environment and Recreation Zone under the Land Zoning Map in this Policy.
- (4) In this clause—  
***Growth Centres SEPP*** means the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

## **9 Application of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007**

Development for the purposes of extractive industries is prohibited on land shown on the Land Application Map other than in the Enterprise Zone, despite clause 7 of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

## **10 Maps**

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

## **11 Amendment and replacement of existing maps**

The maps adopted by the following are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy—

- (a) *Liverpool Local Environmental Plan 2008*,
- (b) *Penrith Local Environmental Plan 2010*,
- (c) *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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

### **12 Land use zones**

The land use zones under this Policy are as follows—

- Enterprise
- Agribusiness
- Mixed Use
- SP2 Infrastructure
- Environment and Recreation

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

For the purposes of this Policy, land is within the zones shown on the Land Zoning Map.

### **14 Zone objectives and Land Use Table**

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

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

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

### **16 Subdivision**

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

### **17 Demolition requires development consent**

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

## **18 Temporary use of land**

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

## **Land Use Table**

### **Enterprise Zone**

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

- To encourage employment and businesses related to professional services, high technology, aviation, logistics, food production and processing, health, education and creative industries.
- To provide a range of employment uses (including aerospace and defence industries) that are compatible with future technology and work arrangements.
- To encourage development that promotes the efficient use of resources, through waste minimisation, recycling and re-use.
- To ensure an appropriate transition from non-urban land uses and environmental conservation areas in surrounding areas to employment uses in the zone.
- To prevent development that is not compatible with or that may detract from the future commercial uses of the land.
- To provide facilities and services to meet the needs of businesses and workers.

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

Nil



**3 Permitted with consent**

Any development not specified in item 2 or 4

**4 Prohibited**

Air transport facilities; Airstrips; Camping grounds; Caravan parks; Crematoria; Exhibition homes; Exhibition villages; Forestry; Heavy industrial storage establishments; Heavy industries; Helipads; Intensive livestock agriculture; Mortuaries; Open cut mining; Residential accommodation; Rural industries; Turf farming

**Agribusiness Zone**

**1 Objectives of zone**

- To encourage diversity in agribusiness, including related supply chain industries and food production and processing that are appropriate for the area.
- To encourage sustainable and high technology agribusiness, including agricultural produce industries.
- To enable sustainable agritourism.
- To encourage development that is consistent with the character of Luddenham village.
- To maintain the rural landscape character and biodiversity of the area.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Rural workers' dwellings; Any other development not specified in item 2 or 4

**4 Prohibited**

Airstrips; Amusement centres; Boat building and repair facilities; Caravan parks; Centre-based child care facilities; Crematoria; Depots; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Heavy industrial storage establishments; Heavy industries; Helipads; Hotel or motel accommodation; Intensive livestock agriculture; Jetties; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Sawmill or log processing works; Serviced apartments; Sex services premises; Specialised retail premises; Stock and sale yards; Storage premises; Turf farming; Vehicle sales or hire premises; Waste or resource management facilities; Water recreation structures; Wharf or boating facilities

**Mixed Use Zone**

**1 Objectives of zone**

- To integrate a mixture of compatible land uses in accessible locations.
- To promote business, office, retail, entertainment and tourist uses.
- To promote a high standard of public amenity and convenient urban living.
- To provide for residential and other accommodation that includes active non-residential uses at street level.

- To ensure an appropriate transition from non-urban land uses and environmental conservation areas in surrounding areas to urban land uses in the zone.

**2 Permitted without consent**

Home-based child care; Home businesses; Home occupations

**3 Permitted with consent**

Any development not specified in item 2 or 4

**4 Prohibited**

Air transport facilities; Airstrips; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Exhibition homes; Exhibition villages; Extractive industries; Forestry; General industries; Heavy industrial storage establishments; Heavy industries; Helipads; Highway service centres; Intensive livestock agriculture; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Semi-detached dwellings; Sewage systems; Timber yards; Transport depots; Truck depots; Turf farming; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities; Wharf or boating facilities

**SP2 Infrastructure Zone**

**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.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended use and that minimises adverse impacts on surrounding land.

**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

**Environment and Recreation Zone**

**1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To protect the ecological, scenic and recreation values of waterways, including Wianamatta–South Creek and its tributaries.
- To provide a range of recreational settings and activities and compatible land uses.

- To protect and conserve the environment, including threatened and other species of native fauna and flora and their habitats, areas of high biodiversity significance and ecological communities.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Any development not specified in item 2 or 4

**4 Prohibited**

Air transport facilities; Airstrips; Amusement centres; Backpackers' accommodation; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Centre-based child care facilities; Charter and tourism boating facilities; Correctional centres; Depots; Educational establishments; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Hardware and building supplies; Heavy industrial storage establishments; Helipads; Highway service centres; Hospitals; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Industries; Intensive livestock agriculture; Jetties; Medical centres; Mooring pens; Moorings; Mortuaries; Office premises; Open cut mining; Port facilities; Public administration buildings; Residential accommodation; Respite day care centres; Restricted premises; Rural industries; Service stations; Serviced apartments; Sex services premises; Specialised retail premises; Storage premises; Timber yards; Transport depots; Truck depots; Turf farming; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities; Wholesale supplies

## Part 3 Development controls—Airport safeguards

### 19 Aircraft noise

- (1) The objectives of this clause are—
  - (a) to prevent certain noise sensitive development on land near the Airport, and
  - (b) to minimise the impact of aircraft noise for other noise sensitive development, and
  - (c) to ensure that land use and development near the Airport do not hinder or have other adverse impacts on the ongoing, safe and efficient 24 hours a day operation of the Airport.
- (2) Development consent must not be granted to noise sensitive development if the development is to be located on land that is in an ANEF or ANEC contour of 20 or greater.
- (3) Subclause (2) applies despite the following—
  - (a) Part 2, Divisions 7 and 8 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*,
  - (b) Chapter 3 of *State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004*,
  - (c) *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.
- (4) Despite subclause (2), development consent may be granted to development for the purposes of dwelling houses on land that is in an ANEF or ANEC contour of 20 or greater if—
  - (a) immediately before the commencement of this Policy—
    - (i) there were no dwellings on the land, and
    - (ii) development for the purposes of dwelling houses was permitted on the land, and
  - (b) the consent authority is satisfied that the development will meet the indoor design sound levels.
- (5) Development consent must not be granted to noise sensitive development on the following land unless the consent authority is satisfied the development will meet the indoor design sound levels—
  - (a) land shown on the Land Application Map that is not in an ANEF or ANEC contour of 20 or greater,
  - (b) land shown on the Obstacle Limitation Surface Map.
- (6) In this clause—

**ANEC contour** means a contour on the Noise Exposure Contour Map.

**ANEF contour** means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Airport endorsed by Airservices Australia.

**indoor design sound levels** means the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2015, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

**noise sensitive development** means development for the following purposes—
  - (a) centre-based child care facilities,
  - (b) educational establishments,

- (c) exhibition homes,
- (d) exhibition villages,
- (e) funeral homes,
- (f) hospitals,
- (g) information and education facilities,
- (h) places of public worship,
- (i) residential accommodation,
- (j) respite day care centres,
- (k) school-based child care (other than in an existing school).

## 20 Building wind shear and turbulence

- (1) The objective of this clause is to safeguard Airport operations from wind shear and turbulence generated by buildings.
- (2) Development consent must not be granted to the following development unless the consent authority has consulted the relevant Commonwealth body—
  - (a) development on land shown on the Lighting Intensity and Wind Shear Map,
  - (b) development that penetrates the 1:35 surface.
- (3) For the purposes of this clause, development penetrates the 1:35 surface if the distance from the runway centreline to the closest point of the building is less than or equal to 35 times the height above runway level of the building.

**Example.** A building with a height of 10 metres does not penetrate the 1:35 surface if the building is located more than 350 metres from the runway centreline.

## 21 Wildlife hazards

- (1) The objective of this clause is to regulate development on land surrounding the Airport where wildlife may present a risk to the operation of the Airport.
- (2) Development consent must not be granted to relevant development on land in the 13 km wildlife buffer zone unless the consent authority—
  - (a) has consulted the relevant Commonwealth body, and
  - (b) has considered a written assessment of the wildlife that is likely to be present on the land and the risk of the wildlife to the operation of the Airport provided by the applicant, which includes—
    - (i) species, size, quantity, flock behaviour and the particular times of day or year when the wildlife is likely to be present, and
    - (ii) whether any of the wildlife is a threatened species, and
    - (iii) a description of how the assessment was carried out, and
  - (c) is satisfied that the development will mitigate the risk of wildlife to the operation of the Airport, including, for example, measures relating to—
    - (i) waste management, landscaping, grass, fencing, stormwater or water areas, or
    - (ii) the dispersal of wildlife from the land by the removal of food or the use of spikes, wire or nets.
- (3) Despite subclause (2), development for the following purposes is prohibited on land in the 3 km wildlife buffer zone—
  - (a) livestock processing industries,
  - (b) turf farming,

- (c) waste or resource management facilities that consist of outdoor processing, storage or handling of organic or putrescible waste.
- (4) In this clause—
  - 3 km wildlife buffer zone** means the land shown as the “3 kilometre wildlife buffer zone” on the Wildlife Buffer Zone Map.
  - 13 km wildlife buffer zone** means the land shown as the “13 kilometre wildlife buffer zone” on the Wildlife Buffer Zone Map and includes the 3 km wildlife buffer zone.
  - relevant development** means development for the following purposes—
    - (a) agricultural produce industries,
    - (b) aquaculture,
    - (c) camping grounds,
    - (d) eco-tourist facilities,
    - (e) garden centres,
    - (f) intensive livestock agriculture,
    - (g) intensive plant agriculture,
    - (h) livestock processing industries,
    - (i) plant nurseries,
    - (j) recreation facilities (major),
    - (k) recreation facilities (outdoor),
    - (l) sewage treatment plants,
    - (m) waste or resource management facilities that consist of outdoor processing, storage or handling of organic or putrescible waste,
    - (n) water storage facilities.

## 22 Wind turbines

- (1) The objective of this clause is to regulate the construction of wind turbines and wind monitoring towers on land within 30 kilometres of the Airport.
- (2) Development for the following purposes is prohibited on land in the 3 km zone—
  - (a) electricity generating works comprising a wind turbine,
  - (b) wind monitoring towers that are not ancillary or incidental to the Airport.
- (3) Development consent must not be granted to development for the purposes of a large wind monitoring tower in the 3–30 km zone unless the consent authority has consulted the relevant Commonwealth body.
- (4) Development consent must not be granted to development for the purposes of a electricity generating works comprising a large wind turbine on land in the 3–30 km zone unless the consent authority—
  - (a) has consulted the relevant Commonwealth body, and
  - (b) has considered a written assessment of the risk of the development to the safe operation of the Airport provided by the applicant, and
  - (c) is satisfied that the development will adequately mitigate the risk to the safe operation of the Airport.
- (5) In this clause—
  - 3 km zone** means the land shown as the “3 kilometre zone” on the Wind Turbines Map.

**3–30 km zone** means the land shown as the “3–30 kilometre zone” on the Wind Turbines Map.

**large wind monitoring tower** means a wind monitoring tower that measures at least 150 metres from ground level (existing) to the topmost point of the wind monitoring tower.

**large wind turbine** means a wind turbine that measures at least 150 metres from ground level (existing) to the topmost point of the wind turbine.

## 23 Lighting

- (1) The objective of this clause is to safeguard Airport operations from the risk of lighting and reflectivity distractions for pilots.
- (2) Development consent must not be granted to development for the following purposes on land shown on the Lighting Intensity and Wind Shear Map unless the consent authority has consulted the relevant Commonwealth body—
  - (a) installation and operation of external lighting (whether coloured or white lighting) in connection with development for the following purposes—
    - (i) classified roads,
    - (ii) freight transport facilities,
    - (iii) heavy industrial storage establishments,
    - (iv) recreation facilities (major),
    - (v) recreation facilities (outdoor),
  - (b) installation and operation of external lighting in connection with construction works that is likely to be obtrusive or create light spill outside the land on which the construction works are carried out.

## 24 Airspace operations

- (1) The objectives of this clause are—
  - (a) to provide for the effective and ongoing operation of the Airport by ensuring that its operation is not compromised by development that penetrates the prescribed airspace for the Airport, and
  - (b) to protect the community from undue risk from the operation of the Airport.
- (2) This clause applies to development on land shown on the Obstacle Limitation Surface Map that is a controlled activity within the meaning of Part 12, Division 4 of the *Airports Act 1996* of the Commonwealth.

**Note.** Controlled activities include the construction or alteration of buildings or other structures that penetrate the prescribed airspace. Controlled activities cannot be carried out without an approval under Part 12, Division 4 of the *Airports Act 1996* of the Commonwealth.
- (3) Development consent must not be granted to development to which this clause applies unless—
  - (a) the consent authority has consulted the relevant Commonwealth body, and
  - (b) the relevant Commonwealth body advises the consent authority that—
    - (i) the development will penetrate the prescribed airspace but it does not object to the development, or
    - (ii) the development will not penetrate the prescribed airspace.
- (4) Development consent must not be granted to development to which this clause applies if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be carried out.

## 25 Public safety

- (1) The objective of this clause is to regulate development on land on which there is an appreciable risk to public safety from the operation of the Airport.
- (2) Development for the following purposes is prohibited on land shown as the “public safety area” on the Public Safety Area Map—  
Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Education establishments; Entertainment facilities; Function centres; Funeral homes; Health services facilities; Heavy industrial storage establishments; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Tourist and visitor accommodation
- (3) Development consent must not be granted to development for a purpose not specified in subclause (2) on land shown as the “public safety area” on the Public Safety Area Map unless the consent authority—
  - (a) has considered a written assessment of the risk of the development to persons provided by the applicant, which includes—
    - (i) the risk to persons on the land in the event of an emergency or other incident at or around the Airport, including an incident involving an aircraft landing or taking off from the Airport, and
    - (ii) the likely number of people who will use or otherwise be present on the land, and
    - (iii) the compatibility of the development with the risk, including in relation to the number of people who will use or otherwise be present on the land, and
  - (b) is satisfied that the development will adequately mitigate the risk to persons on the land, including by limiting the number of people or vehicles.



## Part 4 Development controls—general

### 26 Flood planning

- (1) The objectives of this clause are—
  - (a) to minimise the flood risk to life and property associated with the use of land, and
  - (b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change, and
  - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to—
  - (a) land shown as the “flood planning area” on the Flood Planning Map, and
  - (b) other land that is at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the development—
  - (a) is compatible with the flood hazard of the land, taking into account projected changes as a result of climate change, and
  - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
  - (c) incorporates appropriate measures to manage risk to life from flood, and
  - (d) will enable safe occupation of and evacuation from flood prone land, and
  - (e) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
  - (f) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and
  - (g) is consistent with any relevant floodplain risk management plan adopted by the council for the land in accordance with the Floodplain Development Manual.
- (4) Development consent may be granted to development on land below the flood planning level only if the development—
  - (a) does not involve earthworks that will affect flood storage capacity or flood behaviour, and
  - (b) is not located on a floodway area or flood storage area.
- (5) Words and expressions used in this clause have the same meaning as in the Floodplain Development Manual.
- (6) In this clause—

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

***Floodplain Development Manual*** means the NSW Government’s *Floodplain Development Manual* published in 2005.

### 27 Preservation of trees and vegetation in Environment and Recreation Zone and Cumberland Plain

- (1) The objectives of this clause are—
  - (a) to preserve the amenity of the Western Sydney Aerotropolis through the preservation of trees and vegetation, and

- (b) to promote the conservation of, and minimise the impact of development on, native vegetation.
- (2) This clause applies to—
  - (a) land in the Environment and Recreation Zone, and
  - (b) land shown as “high biodiversity value” on the High Biodiversity Value Areas Map.
- (3) A person must not clear native vegetation on land to which this clause applies without development consent.
- (4) Development consent under subclause (3) must not be granted unless the consent authority is satisfied that, in relation to the disturbance of native vegetation caused by the clearing—
  - (a) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (b) any impact of the proposed clearing on biodiversity values is avoided or minimised, and
  - (c) the disturbance of the native vegetation will not increase salinity, and
  - (d) native vegetation inadvertently disturbed for the purposes of construction will be re-instated where possible on completion of construction, and
  - (e) 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, and
  - (f) 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.
- (5) Development for the following purposes is prohibited on land shown as “high biodiversity value” on the High Biodiversity Value Areas Map—
  - (a) environmental facilities,
  - (b) information and education facilities,
  - (c) kiosks,
  - (d) recreation areas,
  - (e) recreation facilities (outdoor),
  - (f) roads,
  - (g) water recreation structures.
- (6) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* does not apply to land to which this clause applies.
- (7) This clause does not authorise the clearing of existing native vegetation within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the repealed *Threatened Species Conservation Act 1995*.  
**Note.** Clause 43 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* provides that the repeal of the *Threatened Species Conservation Act 1995* does not affect the operation of Part 7 or 8 of Schedule 7 to that Act. Land to which this clause applies is affected by the biodiversity certification provisions of that Act and provisions of *State Environmental Planning Policy (Sydney Region Growth Centres) Policy 2006*.

## 28 Heritage conservation

**Note.** Heritage items (if any) are listed and described in Schedule 2. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 2.

- (1) The objectives of this clause are—

- (a) to conserve the environmental heritage of the land to which this Policy applies, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

**(2) Requirement for consent**

Development consent is required for 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 2 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

**(3) When consent not required**

However, development consent under this clause is not required if—

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
  - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development—

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

**(4) Effect of proposed development on heritage significance**

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

- (5) Subclause (4) applies regardless of whether a heritage management document is prepared under subclause (6) or a heritage conservation management plan is submitted under subclause (7).

**(6) 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.

**(7) Heritage conservation management plans**

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

**(8) Archaeological sites**

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

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.

**(9) Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—

- (a) consider the effect of the proposed development on the heritage significance of the place and an Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or other appropriate manner, about the application and take into consideration a response received within 28 days after the notice is sent.

(10) **Demolition of nominated State heritage items**

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and
- (b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.

(11) **Conservation incentives**

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

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

**29 Transport corridors**

- (1) Development consent must not be granted to the following development unless the consent authority has obtained the concurrence of Transport for NSW—
  - (a) development on transport corridor land with a capital investment value of more than \$200,000,
  - (b) development that involves the penetration of ground to a depth of at least 2 metres below ground level (existing) on land within 25 metres (measured horizontally) of transport corridor land.
- (2) In deciding whether to grant concurrence, Transport for NSW must take into account the following—
  - (a) the appropriateness of the development in relation to planned infrastructure on transport corridor land, including the service capability of planned infrastructure and the provision of sustainable transport options,
  - (b) the timing of the carrying out of the proposed development and the timing for constructing infrastructure on transport corridor land,
  - (c) the effect of the development on planned infrastructure, including the additional costs of constructing infrastructure on transport corridor land if the development is carried out.
- (3) Development consent must not be granted to development with a capital investment value of more than \$200,000 on land in the 400 metre zone unless the consent authority has consulted Sydney Metro about the following—

- (a) the appropriateness of the development in relation to planned train stations, including the service capability of planned train stations and the provision of sustainable transport options,
- (b) the timing of the carrying out of the proposed development and the timing for constructing train stations,
- (c) the effect of the development on planned train stations.

(4) In this clause—

**400 metre zone** means the land within 400 metres of a train station as shown on the Transport Corridors Map.

**transport corridor land** means land shown as “transport corridor land” on the Transport Corridors Map.

### 30 Warragamba Pipelines

Development consent must not be granted to development on land shown on the Warragamba Pipelines Map unless the consent authority—

- (a) has obtained the concurrence of Water NSW, and
- (b) is satisfied that the development will not adversely affect—
  - (i) the quantity or quality of water in the Warragamba Pipelines controlled area (declared under the *Water NSW Act 2014*), or
  - (ii) the operation and security of water supply pipelines from Warragamba Dam to Prospect Reservoir and associated infrastructure.

**Note.** Water NSW has issued guidelines entitled *Guidelines for Development Adjacent to the Upper Canal and Warragamba Pipelines*, published in February 2020, that are relevant to development in the area to which this clause applies.

## Part 5 Design excellence

### 31 Objectives

The objectives of this Part are—

- (a) to ensure development in the Western Sydney Aerotropolis is consistent with the policy entitled *Better Placed*, published by the Government Architect NSW in May 2017, and
- (b) to deliver the highest standard of architectural, urban and landscape design.

### 32 Application of Part

This Part does not apply to complying development.

### 33 Design review panel

- (1) This clause applies to the following development—
  - (a) State significant development,
  - (b) development with a capital investment value of more than \$20 million,
  - (c) development with a site area of at least 5,000 square metres or a gross floor area of at least 7,500 square metres,
  - (d) development in relation to a building that has, or will have, 3 or more storeys above ground level (existing).
- (2) Development consent must not be granted to the development unless—
  - (a) a design review panel reviews the development, and
  - (b) the consent authority takes into account the findings of the design review panel, and
  - (c) the consent authority is of the opinion that the development exhibits design excellence.
- (3) In this clause—

***design review panel*** means a panel of 3 or more persons established by the consent authority for the purposes of this clause and approved by the Government Architect NSW.

### 34 Architectural design competition

- (1) This clause applies to the following development—
  - (a) development in relation to a building that has, or will have, a height above ground level (existing) greater than 40 metres or 12 storeys,
  - (b) development with a capital investment value of more than \$40 million.
- (2) Development consent must not be granted to the development unless—
  - (a) an architectural design competition approved by the Government Architect NSW is held, and
  - (b) the design of the development is the winner of the architectural design competition, and
  - (c) the consent authority is of the opinion that the development exhibits design excellence.

### 35 Consideration of design excellence

- (1) In considering whether development exhibits design excellence for the purposes of this Part, the consent authority must have regard to the following matters—

- (a) whether the development responds to the physical and cultural connection of the local Aboriginal community to the land,
  - (b) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (c) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
  - (d) whether the development detrimentally impacts on view corridors.
- (2) The consent authority must also have regard to how the development addresses the following matters—
- (a) the suitability of the land for development,
  - (b) the existing and proposed uses and use mix,
  - (c) Aboriginal heritage,
  - (d) the relationship of the development with other buildings (existing or proposed) on the same site or neighbouring sites in terms of separation, setbacks, amenity and urban form,
  - (e) the bulk, massing and modulation of buildings,
  - (f) street frontage heights,
  - (g) environmental performance and amenity standards, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,
  - (h) the achievement of the principles of ecologically sustainable development,
  - (i) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,
  - (j) the impact on, and proposed improvements to, the public domain,
  - (k) the impact on special character areas,
  - (l) achieving appropriate interfaces at ground level between the building and the public domain,
  - (m) architectural diversity where the development is to consist of more than 2 buildings.



## Part 6 Exempt development

### 36 Application of Codes SEPP

- (1) The Codes SEPP does not apply to land to which this Policy applies, except as provided by this Part.
- (2) In this Part—  
*Codes SEPP* means *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.  
*relevant land* means land shown on the Land Application Map, other than land shown as “high biodiversity value” on the High Biodiversity Value Areas Map.

### 37 Application of Part 2, Division 1 of Codes SEPP

- (1) Development specified in Part 2, Division 1, other than Subdivisions 16A, 16B, 21, 21AA, 39B or 41, of the Codes SEPP is exempt development if carried out on relevant land, subject to the modifications set out in this clause.
- (2) Development specified in Part 2, Division 1, Subdivision 2 of the Codes SEPP is exempt development only if the development is attached to an existing building as specified in clause 2.4(1)(a) of the Codes SEPP.
- (3) Development specified in Part 2, Division 1, Subdivision 3A of the Codes SEPP is exempt development only if the animal shelter does not have a floor area of more than 5 square metres.
- (4) Development specified in Part 2, Division 1, Subdivision 4 of the Codes SEPP is exempt development even if the development does not satisfy the development standards in clause 2.8(1)(b), (c), (d) or (g1) of the Codes SEPP, but only if the aviary—
  - (a) does not have a floor area of more than 10 square metres, and
  - (b) is not higher than 2.4 metres above ground level (existing), and
  - (c) is located in the rear yard and at least 900 millimetres from each side and rear boundary, and
  - (d) to the extent it is comprised of metal components—is constructed of low reflective, factory pre-coloured materials.
- (5) Development specified in Part 2, Division 1, Subdivision 10 of the Codes SEPP is exempt development only if there is no more than 1 carport per lot.
- (6) Development specified in Part 2, Division 1, Subdivisions 17 and 17A of the Codes SEPP is exempt development only if carried out on land in the Mixed Use Zone.
- (7) Development specified in Part 2, Division 1, Subdivision 18 of the Codes SEPP is exempt development only if carried out on land in the Agribusiness or Environment and Recreation Zone.
- (8) Development specified in Part 2, Division 1, Subdivision 19 of the Codes SEPP is exempt development only if carried out on land in the Enterprise Zone.
- (9) Development specified in Part 2, Division 1, Subdivision 28 of the Codes SEPP is exempt development if the development satisfies the development standards in clause 2.56(a)–(c) of the Codes SEPP.
- (10) Development specified in Part 2, Division 1, Subdivision 32 of the Codes SEPP is exempt development even if the development does not satisfy the development standards in clause 2.64(1)(a), (b) or (e) of the Codes SEPP, but only if the tank—
  - (a) does not have a capacity of more than 5,000 litres, and

- (b) does not require cut and fill of more than 600 millimetres below or above ground level (existing).
- (11) Development specified in Part 2, Division 1, Subdivision 33 of the Codes SEPP is exempt development only if carried out on land in the Agribusiness Zone.
- (12) Development specified in Part 2, Division 1, Subdivision 36 of the Codes SEPP is exempt development even if the development does not satisfy the development standards in clause 2.72(b) of the Codes SEPP, but only if the shade structure does not have an area more than—
  - (a) for residential uses—20 square metres, or
  - (b) for a centre-based child care facility—40 square metres, or
  - (c) for any other use—30 square metres.
- (13) Development specified in Part 2, Division 1, Subdivision 36B is exempt development only if carried out on land in the Agribusiness or Enterprise Zone.

**38 Application of Part 2, Division 2 of Codes SEPP**

- (1) Development specified in Part 2, Division 2 of the Codes SEPP is exempt development if carried out on relevant land subject to the modifications set out in subclause (2).
- (2) Development specified in Part 2, Division 2, Subdivision 3 of the Codes SEPP is exempt development even if the development does not satisfy the development standards in clause 2.87(c)–(e) of the Codes SEPP, but only if the sign is—
  - (a) for a home business, home industry or home occupation, and
  - (b) not more than 1 square metre in area.

**39 Application of Part 2, Division 3 of Codes SEPP**

Development specified in Part 2, Division 3 of the Codes SEPP is exempt development if carried out on relevant land.

## Part 7 Precinct plans and master plans

### Division 1 Precinct plans

#### 40 Precinct plans

- (1) A precinct plan is to be prepared by the Planning Secretary and must be approved by the Minister.
- (2) A precinct plan is to apply to specified land (a *precinct*) to which this Policy applies.
- (3) A precinct plan must contain the following—
  - (a) the strategic vision and general objectives for the precinct,
  - (b) a map showing proposed land uses for land in the precinct,
  - (c) the performance criteria for development on land in the precinct,
  - (d) proposals for public utility infrastructure, roads and transport on land in the precinct,
  - (e) proposals for total water cycle management for the precinct.
- (4) A precinct plan must be consistent with this Policy.
- (5) A draft precinct plan is to be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (6) A precinct plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is so published.

#### 41 Development must be consistent with precinct plan

Development consent must not be granted to development on land to which a precinct plan applies unless the consent authority is satisfied that the development is consistent with the precinct plan.

#### 42 Development prior to precinct plan

- (1) This clause applies to development on land in the Western Sydney Aerotropolis if there is no precinct plan in force for the land.
- (2) However, this clause does not apply to development that has a capital investment value of less than \$1 million and relates to an existing or permitted use.
- (3) Development consent must not be granted to development to which this clause applies, unless the consent authority has considered whether the development—
  - (a) is consistent with the aims of this Policy, and
  - (b) will result in further fragmentation of land holdings, and
  - (c) will hinder the orderly and co-ordinated provision of infrastructure that is planned for the land to which this Policy applies, and
  - (d) is incompatible with, or will adversely affect, the long-term operations and development of the Airport, and
  - (e) appropriately takes into account the development and infrastructure in areas adjacent to the development, and
  - (f) will be adequately serviced by public utility infrastructure.

## Division 2 Master plans and complying development

### 43 Master plans

- (1) The Minister may approve a master plan that applies to specified land to which this Policy applies.
- (2) A master plan must—
  - (a) apply to an area of 100 hectares or more of contiguous land with at least 70% of the land owned by one person, and
  - (b) specify the particular development that may be carried out as complying development on the land to which the master plan applies, and
  - (c) contain development controls for the complying development, and
  - (d) contain the matters required by the master plan guidelines.
- (3) The Minister may approve a master plan only—
  - (a) with the consent of the owner of land to which the master plan applies, and
  - (b) if satisfied that the master plan—
    - (i) is consistent with the master plan guidelines, and
    - (ii) is consistent with a development control plan that is applicable to the land.
- (4) A draft master plan is to be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (5) A master plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is so published.
- (6) A master plan has effect for 5 years from the date it is approved by the Minister or a longer period approved by the Minister.
- (7) In this clause—

**master plan guidelines** means the guidelines issued by the Planning Secretary for the purposes of this clause on 1 October 2020 that are available on the NSW planning portal.

### 44 Consent authority to consider master plan

Development consent must not be granted to development on the following land unless the consent authority has considered the master plan or draft master plan—

- (a) land to which a master plan applies or is proposed to apply,
- (b) land shown on the Land Application Map that is adjacent to land to which a master plan applies or is proposed to apply.

### 45 Complying development

Development that is permitted with development consent under this Policy is complying development if the development—

- (a) is specified in a master plan as complying development, and
- (b) is consistent with the master plan, and
- (c) meets the relevant provisions of the *Building Code of Australia*, and
- (d) is not carried out on land on which a heritage item or Aboriginal object is located or that is within a heritage conservation area or Aboriginal place of heritage significance, and

- (e) is not for the purpose of remediation work within the meaning of *State Environmental Planning Policy No 55—Remediation of Land*.

**Note.** Development specified as complying development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is not complying development for the purposes of this Policy.

### **Division 3 Aerotropolis certificates**

**Note.** Under the *Environmental Planning and Assessment Regulation 2000*, an Aerotropolis certificate is required to accompany an application for a complying development certificate if the development is on land to which this Policy applies and there is a master plan in force for the land.

#### **46 Applications for Aerotropolis certificates**

- (1) An application for an Aerotropolis certificate for proposed development on land to which this Policy applies may be made to the Planning Secretary.
- (2) An application may be made only by the person who proposes to carry out the development with the consent of the owner of the land on which the development is to be carried out.
- (3) An application must be in the form approved by the Planning Secretary and include the following information—
  - (a) the name and address of the applicant,
  - (b) the address, and particulars of title, of the subject land,
  - (c) a description of the development.

#### **47 Determination of applications for Aerotropolis certificates**

- (1) The Planning Secretary must determine an application for an Aerotropolis certificate by issuing or refusing to issue a certificate.
- (2) The Planning Secretary must determine an application within 30 days of the application being made.

**Note.** There is no right of review or appeal in relation to a determination of, or a failure to determine, an application for an Aerotropolis certificate.
- (3) The Planning Secretary must not issue an Aerotropolis certificate unless—
  - (a) there is a master plan that applies to the land on which the development is to be carried out, and
  - (b) the Planning Secretary is satisfied that the development is consistent with the master plan.
- (4) If the Planning Secretary is not satisfied that the development is consistent with the master plan, the Planning Secretary is to give the applicant an opportunity to modify the application to ensure that it is consistent.
- (5) The Planning Secretary must provide reasons for refusing to issue an Aerotropolis certificate.

#### **48 Duration of Aerotropolis certificates**

An Aerotropolis certificate remains in force for 5 years after it is issued.

### **Division 4 Infrastructure**

#### **49 Development to which Division applies**

This Division applies to the following development on land in the Western Sydney Aerotropolis—

- (a) development to which clause 42 applies,

- (b) development for commercial or industrial purposes,
- (c) development for residential purposes that results in an increase in the number of dwellings on the land.

#### **50 Concurrence of Planning Secretary**

- (1) Development consent to development to which this Division applies must not be granted unless the consent authority has obtained the concurrence of the Planning Secretary.
- (2) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
  - (a) the impact of the development on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (b) the cumulative impact of the development with other development that has, or is likely to be, carried out in surrounding areas on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into contributing to designated State public infrastructure.
- (3) In deciding whether to grant concurrence, the Planning Secretary must also consult the public authorities that the Planning Secretary considers relevant to the development.
- (4) This clause does not apply to development if all or part of the land on which the development is to be carried out is in a special contributions area to which a determination under section 7.23 of the Act applies.
- (5) In this clause—

***designated State public infrastructure*** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of the financial or in-kind contribution by the State) of the following kinds—

  - (a) State and regional roads,
  - (b) bus interchanges and bus lanes,
  - (c) rail infrastructure and land,
  - (d) regional parks and public space,
  - (e) social infrastructure and facilities (including schools, hospitals, emergency services and justice facilities).

#### **51 Public utility infrastructure**

- (1) Development consent must not be granted to development to which this Division applies unless the consent authority is satisfied that—
  - (a) public utility infrastructure that is essential for the development is available, or
  - (b) the public utility infrastructure will be available when required.
- (2) In this clause—

***public utility infrastructure*** includes infrastructure for the following—

  - (a) the supply of water,

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

## Part 8 Miscellaneous

### 52 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Part 2, Division 3 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
SP2 Infrastructure Zone and marked “Transport corridor”	Transport for NSW
Regional park or public space	Planning Ministerial Corporation

- (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.

### 53 Savings and transitional provisions

- (1) A development application for development on land to which this Policy applies that was lodged and not finally determined before the commencement of this Policy is to be determined as if this Policy had not commenced.
- (2) Development that, immediately before the commencement of this Policy, was permitted with consent under *Penrith Local Environmental Plan 2010* or *Liverpool Local Environmental Plan 2008* on land shown as “Luddenham Village” on the Key Sites Map continues to be permitted with consent under this Policy.
- (3) This Policy does not apply to the land shown as “Sydney Science Park” under clause 7.24 of *Penrith Local Environmental Plan 2010* (**Sydney Science Park**) despite being shown on the Land Application Map under this Policy.
- (4) *Penrith Local Environmental Plan 2010* continues to apply to Sydney Science Park.
- (5) Subclauses (2)–(4) cease to apply to land as soon as a precinct plan is in force for the land.



## **Schedule 1 Additional permitted uses**

clause 15

(When this Policy was made, this Schedule was blank)

## Schedule 2 Environmental heritage

clause 28

### Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Badgerys Creek	McGarvie Smith Farm	1793–1951 Elizabeth Drive	Lot 63, DP 1087838	Local	I1
Bringelly	Kelvin	30 The Retreat	Lots 2711–2714, DP 1128906	State	I3
Bringelly	Mount Pleasant homestead	3 Shannon Road	Lot 44, DP 581187	Local	I4
Kemps Creek	The Fleurs Radio Telescope site	885(a) Mamre Road	Lot 21, DP 258414	Local	I5
Luddenham	Brick cottage	21–55 Campbell Street	Lot 1, DP 972057	Local	I6
Luddenham	Wilmington reserve	17 Jamison Street	Lot 7004, DP 93052	Local	I7
Luddenham	Luddenham Road alignment	Luddenham Road		Local	I8
Luddenham	Lawson’s Inn site (former “The Thistle” site)	2155 The Northern Road	Lots 3 and 7, DP 1234822	Local	I9
Luddenham	Luddenham Public School	2158 The Northern Road	Lot 1, DP 194409	Local	I2
Luddenham	Weatherboard cottage	3065–3067 The Northern Road	Lot 1, DP 930372	Local	I10
Luddenham	Weatherboard cottage	3075 The Northern Road	Lot 1, DP 304800	Local	I11
Luddenham	Luddenham Progress hall	3091–3095 The Northern Road	Lot 7, DP 1655	Local	I12
Luddenham	Luddenham Uniting Church and cemetery	3097–3099 The Northern Road	Lot 8, DP 1655	Local	I13
Luddenham	St James Anglican Church and cemetery	3101–3125 The Northern Road	Lot 2, DP 529143	Local	I14
Luddenham	Showground	428–452 Park Road	Lot 1, DP 931631; Lot 2, DP 972057	Local	I15

## Dictionary

clause 4

***Aerotropolis Boundary Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Aerotropolis Boundary Map.

***Airport*** means the Sydney West Airport under the *Airports Act 1996* of the Commonwealth, also known as the Western Sydney International (Nancy-Bird Walton) Airport.

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

***Codes SEPP***, for Part 6—see clause 36.

***Flood Planning Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Flood Planning Map.

***Heritage Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Heritage Map.

***High Biodiversity Value Areas Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 High Biodiversity Value Areas Map.

***Key Sites Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Key Sites Map.

***Land Application Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Land Application Map.

***Land Reservation Acquisition Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Land Reservation Acquisition Map.

***Land Zoning Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Land Zoning Map.

***Lighting Intensity and Wind Shear Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Lighting Intensity and Wind Shear Map.

***master plan*** means a master plan approved by the Minister under clause 43.

***Noise Exposure Contour Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Noise Exposure Contour Map.

***Obstacle Limitation Surface Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Obstacle Limitation Surface Map.

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

***precinct plan*** means a precinct plan approved by the Minister under clause 40.

***prescribed airspace*** means the airspace—

- (a) above any part of an OLS or PANS-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.

***Public Safety Area Map*** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Public Safety Area Map.

***relevant Commonwealth body*** means—

- (a) the airport-lessee company for the Airport within the meaning of the *Airports Act 1996* of the Commonwealth, or
- (b) if there is no airport-lessee 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.

***relevant land***, for Part 6—see clause 36.

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

**Transport Corridors Map** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Transport Corridors Map.

**Warragamba Pipelines Map** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Warragamba Pipelines Map.

**Western Sydney Aerotropolis** means the land shown on the Aerotropolis Boundary Map.

**Western Sydney Aerotropolis Plan** means the document entitled *Western Sydney Aerotropolis Plan* published by the Department on 1 October 2020 and available on the NSW planning portal.

**Wildlife Buffer Zone Map** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Wildlife Buffer Zone Map.

**Wind Turbines Map** means the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 Wind Turbines Map.

## **Schedule 3 Amendment of local environmental plans**

### **3.1 Liverpool Local Environmental Plan 2008**

#### **Schedule 5 Environmental heritage**

Omit the matter relating to items 6, 8, 50, 52 and 53 from Part 1.

### **3.2 Penrith Local Environmental Plan 2010**

#### **Schedule 5 Environmental heritage**

Omit the matter relating to items 117–120, 122, 678, 679, 832 and 857 from Part 1.