



# Government Gazette

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## SPECIAL SUPPLEMENT



New South Wales

# State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning. (S07/01931/PC)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1 State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

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## **State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)*.

### **2 Aims of Policy**

The aims of this Policy are:

- (a) to identify the land to which this Policy applies (being the South Wallarah Peninsula site) as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to establish appropriate zoning and other development controls for that site, and
- (c) to identify and provide land within the site for the purposes of protection of the environment, and
- (d) to provide for appropriate development on the site that does not impact on important scenic, aesthetic and cultural heritage qualities, and
- (e) to encourage development on the site that provides for high quality foreshore access to the public.

### **3 Land to which Policy applies**

This Policy applies to land shown edged heavy black on the map marked “State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Application Map” held at the head office of the Department.

### **4 Amendment of State Environmental Planning Policy (Major Projects) 2005**

*State Environmental Planning Policy (Major Projects) 2005* is amended as set out in Schedule 1.

State Environmental Planning Policy (Major Projects) 2005 (Amendment  
No 26)

Clause 5

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**5 Amendment of other environmental planning instruments**

Each environmental planning instrument specified in Schedule 2 is amended as set out in that Schedule.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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## Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

(Clause 4)

### Schedule 3 State significant sites

Insert at the end of the Schedule (before the maps) with appropriate numbering:

## Part South Wallarah Peninsula site

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the land shown edged heavy black on the map marked “State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Application Map”, referred to in this Part as the *South Wallarah Peninsula site*.

#### 2 Interpretation

(1) In this Part:

*Additional Permitted Uses Map* means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Additional Permitted Uses Map.

*Height of Buildings Map* means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Height of Buildings Map.

*heritage conservation area* means an area of land shown on the Heritage Map as a heritage conservation area (and includes any heritage items situated on or within that area).

*heritage item* means a building, work, relic, tree or place that is shown as a heritage item on the Heritage Map.

*Heritage Map* means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Heritage Map.

*Land Reservation Acquisition Map* means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Reservation Acquisition Map.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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**Land Zoning Map** means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Zoning Map.

**relevant council**, in relation to land, means the council of the local government area in which the land is situated.

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

### 3 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the South Wallarah Peninsula site are this Policy and all other State environmental planning policies, except:

- (a) *State Environmental Planning Policy No 1—Development Standards*, and
- (b) subject to clause 13, *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* and *State Environmental Planning Policy No 60—Exempt and Complying Development*, and
- (c) *State Environmental Planning Policy No 71—Coastal Protection*.

### 4 Consent authority

The consent authority for development on land within the South Wallarah Peninsula site (other than development that is a project to which Part 3A of the Act applies) is the relevant council.

### 5 Maps

- (1) A reference in this Part to a named map adopted by this Part 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 Part to any such named map is a reference to the relevant part or aspect of the single map.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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- (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 Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

## **Division 2 Provisions applicable to all development**

### **6 Development to which Part applies**

This Part applies with respect to development within the South Wallarah Peninsula site and so applies whether or not the development is a project to which Part 3A of the Act applies.

### **7 Land use zones**

- (1) For the purposes of this Part, land within the South Wallarah Peninsula site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
  - (a) Zone R2 Low Density Residential,
  - (b) Zone E1 National Parks and Nature Reserves,
  - (c) Zone E2 Environmental Conservation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

### **8 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows:
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment on the Wallarah Peninsula,
  - (d) to encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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- (e) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:  
environmental protection works; home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:  
advertisements; advertising structures; bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; drainage; dwelling houses; earthworks; educational establishments; environmental facilities; filming; flood mitigation works; group homes; health consulting rooms; home based child care or family day care homes; home businesses; home industries; hospitals; information and education facilities; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); schools; shop top housing; signage; telecommunications facilities; utility installations.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).
- (5) If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 750 square metres.

## 9 Zone E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
  - (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
  - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
  - (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:  
Uses authorised under the *National Parks and Wildlife Act 1974*.
  - (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves:  
Nil.
  - (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

#### 10 Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
  - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:  
Uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:  
community facilities; drainage; earthworks; environmental facilities; environmental protection works; flood mitigation works; roads; signage; utility installations.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

#### 11 Additional permitted uses

Despite any other provision of this Policy, development for the following purposes on the following land may be carried out with development consent:

- (a) any purpose for which development may be carried out with or without consent on land within Zone R2 Low Density Residential—on land within 20 metres of the



State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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following buildings (as identified on the Additional Permitted Uses Map):

- (i) “Wallahah House” which is located at 1a Keene Street, being Part Lot 2031, DP 841175,
- (ii) “Jetty Master’s Cottage”, which is located on Part Lot 2031, DP 841175,
- (b) recreation areas—on land edged heavy black and identified as “Village Park” or “Coastal Walkway” on the Additional Permitted Uses Map.

## 12 Public utility undertakings

Development for the purpose of a public utility undertaking that is carried out on land within the South Wallarah Peninsula site does not require development consent.

**Note.** As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## 13 Exempt and complying development

- (1) Development within the South Wallarah Peninsula site that satisfies the requirements specified in the following, and that does not contravene clause 14, is exempt development:
  - (a) Parts 2 (other than clauses 6–10) and 4 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*,
  - (b) Part 2 of *State Environmental Planning Policy No 60—Exempt and Complying Development*.
- (2) Development within the South Wallarah Peninsula site that satisfies the requirements specified in the following, and that does not contravene clause 14, is complying development:
  - (a) Part 3 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*,
  - (b) Part 3 of *State Environmental Planning Policy No 60—Exempt and Complying Development*.

## 14 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

- (2) For the purposes of this clause:  
*environmentally sensitive area for exempt or complying development* means any of the following:
- (a) the coastal waters of the State,
  - (b) a coastal lake,
  - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
  - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
  - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
  - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
  - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
  - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
  - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
  - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

**15 Subdivision—consent requirements**

- (1) Land within the South Wallarah Peninsula site may be subdivided, but only with development consent.
- (2) However, development 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,

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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- (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.

#### **16 Height of buildings**

- (1) The objectives of this clause for the control of the height of buildings are as follows:
  - (a) to ensure that development has an appropriate scale and height in relation to its visual, landscape and heritage setting,
  - (b) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.
- (2) The height of a building on land within the South Wallarah Peninsula site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

#### **17 Exceptions to development standards**

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

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow development consent to be granted for development that would contravene a development standard for complying development.
- (8) The development standards provided for in clauses 16 and 22 are excluded from the operation of this clause (except this subclause).

**18 Development within the coastal zone**

- (1) The objectives of this clause are as follows:
  - (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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- (b) to implement the principles in the NSW Coastal Policy, and in particular to:
  - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
  - (ii) protect and preserve rock platforms and the natural, cultural, recreational and economic attributes of the NSW coast, and
  - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
  - (iv) recognise and accommodate coastal processes and climate change, and
  - (v) protect amenity and scenic quality, and
  - (vi) protect and preserve beach environments and beach amenity, and
  - (vii) protect and preserve native coastal vegetation, and
  - (viii) protect and preserve the marine environment, and
  - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority has considered:
  - (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability), with a view to:
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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- (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
    - (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore, including:
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
  - (e) how biodiversity and ecosystems, including:
    - (i) native coastal vegetation and existing wildlife corridors, and
    - (ii) rock platforms, and
    - (iii) water quality of coastal waterbodies, and
    - (iv) native fauna and native flora and their habitats, can be conserved, and
  - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
  - (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

#### **19 Heritage conservation**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item or is within a heritage conservation area:
  - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree, or land on which the building, work or relic is situated, or the land that comprises the place, or
  - (g) make structural changes to the interior of the building or work,except with the consent of the consent authority.
- (2) However, consent under this clause is not required if the proponent of the development has notified the consent authority of the proposed development and the consent authority has advised the proponent in writing before any work is carried out that it is satisfied that the proposed development:
  - (a) is of a minor nature, or is for the maintenance of the heritage item, or a building, work, relic, tree or place within the heritage conservation area, and
  - (b) would not adversely affect the significance of the heritage item or heritage conservation area.
- (3) The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (4) or a heritage conservation management plan is submitted under subclause (5).

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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- (4) The consent authority may, before granting consent to any development on land:
- (a) on which a heritage item is situated, or
  - (b) within a heritage conservation area, or
  - (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement 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.
- (5) The consent authority may require, after considering the 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.

**20 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land within the South Wallarah Peninsula site without consent.

**Note.** The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

**21 Underground mining and natural gas exploration**

- (1) Development for the purpose of underground mining or natural gas exploration may be carried out, with development consent, on any land within the South Wallarah Peninsula site.
- (2) In this clause, *underground mining* means mining carried out beneath the earth's surface, and includes board and pillar mining, longwall mining, top caving, sub-level caving and auger mining and associated activities involving shafts and access pits, but does not include open cut mining.

**22 Designated State public infrastructure**

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of the land within the South Wallarah Peninsula site to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2) This clause does not apply to land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).



State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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- (3) Development consent must not be granted for the subdivision of land within the South Wallarah Peninsula site if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this Division, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subclause (3) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose, or
  - (c) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (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 any financial or in-kind contribution by the State) of the following kinds:
  - (a) State and regional roads,
  - (b) land required for regional open space,
  - (c) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).
- (6) A provision of this clause prevails over any other provision of this Part to the extent of any inconsistency.

### **23 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the South Wallarah Peninsula site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, *public utility infrastructure*, in relation to an urban release area, includes infrastructure for any of the following:

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

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

### Division 3 Miscellaneous

#### 24 Land acquisition within certain zones

- (1) The objective of this clause is to identify, for the purposes of section 27 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 within the South Wallarah Peninsula site, 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	Authority of the State
Zone E1 National Park and Nature Reserves	The Minister administering the <i>National Parks and Wildlife Act 1974</i>
Local roads within Zone R2 Low Density Residential	The relevant 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.

**Note.** If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, this clause is required to be amended to designate the acquiring authority for that land (see section 27 of the Act). The Minister for Planning is required to take action to enable the designation of the acquiring authority under this instrument. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Amendment of State Environmental Planning Policy (Major Projects) 2005 Schedule 1

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authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

**25 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the South Wallarah Peninsula site to be carried out in accordance with this Policy or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
  - (a) to a covenant imposed by the relevant council or that the relevant council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)

Schedule 2 Amendment of other environmental planning instruments

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## **Schedule 2 Amendment of other environmental planning instruments**

(Clause 5)

### **2.1 Wyong Local Environmental Plan 1991**

#### **Clause 3 Land to which plan applies**

Insert at the end of the clause:

- (2) This plan does not apply to the land to which *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)* applies.

### **2.2 Lake Macquarie Local Environmental Plan 2004**

#### **Clause 2 Land to which plan applies**

Insert after clause 2 (2):

- (3) This plan does not apply to the land to which *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)* applies.