



New South Wales

State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 2009

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* in accordance with the recommendation made by the Minister for Planning.

KRISTINA KENEALLY, MP
Minister for Planning

State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 2009

under the

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 2009*.

2 Commencement

This Policy commences on 1 July 2009 and is required to be published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

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

[1] **Part 1, heading**

Insert before clause 1:

Part 1 Preliminary

[2] **Clause 1 Name of Policy**

Omit “*Major Projects*”. Insert instead “*Major Development*”.

[3] **Clause 2 Aims of Policy**

Insert after clause 2 (e):

- (f) to identify development for which regional panels are to exercise specified consent authority functions.

[4] **Clause 3 Definitions and key concepts**

Insert in alphabetical order in clause 3 (1):

coastal lake means a lake referred to in Schedule 1 to *State Environmental Planning Policy No 71—Coastal Protection*.

coastal zone has the same meaning as in the *Coastal Protection Act 1979*.

regional panel means a joint regional planning panel.

sensitive coastal location means any of the following which occur within the coastal zone:

- (a) land within 100m above mean high water mark of the sea, a bay or an estuary,
- (b) a coastal lake,
- (c) a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (d) a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (e) land declared as an aquatic reserve under the *Fisheries Management Act 1994*,
- (f) land declared as a marine park under the *Marine Parks Act 1997*,

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- (g) land within 100m of any of the following:
 - (i) the water's edge of a coastal lake,
 - (ii) land to which paragraph (c), (d), (e) or (f) applies,
 - (iii) land reserved under the *National Parks and Wildlife Act 1974*,
 - (iv) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
- (h) residential land (within the meaning of *State Environmental Planning Policy No 26—Littoral Rainforests*) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)".

[5] Part 2, heading

Insert after clause 5:

Part 2 Major projects and State significant sites

[6] Part 3

Insert after clause 12:

Part 3 Regional development

Division 1 Preliminary

13 Interpretation

- (1) In this Part:

building does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator.

Crown development means development carried out by or on behalf of the Crown (within the meaning of Division 4 of Part 4 of the Act).

eco-tourism facility means a building or place used for tourist and visitor accommodation, function centres or environmental facilities, that is located in a natural environment and is primarily used for activities involving education about, or the interpretation, cultural understanding or appreciation of, the natural environment.

electricity transmission or distribution network has the same meaning as it has in Division 5 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

metropolitan coastal zone means that part of the coastal zone between the northern boundary of the local government area of Newcastle City and the southern boundary of the local government area of Shellharbour City.

port facilities has the same meaning as it has in Division 13 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

public ferry wharf has the same meaning as it has in Division 13 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

rail infrastructure facilities has the same meaning as it has in Division 15 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

road infrastructure facilities has the same meaning as it has in Division 17 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

subdivision of land does not include a boundary adjustment, a strata subdivision, or a community title subdivision associated with another development that has been approved.

wharf or boating facilities has the same meaning as it has in Division 13 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007*.

- (2) Words and expressions in this Part have the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

Division 2 Development to which Part applies

13A Development excluded from Part

This Part does not apply to the following development:

- (a) complying development,
- (b) development within the area of the City of Sydney,
- (c) development for which development consent is not required,
- (d) development specified in Schedule 1, 2, 5 or 6,
- (e) development for which the consent authority is not the council.

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13B General development to which Part applies

- (1) This Part applies to the following development:
 - (a) development that has a capital investment value of more than \$10 million,
 - (b) development for any of the following purposes if it has a capital investment value of more than \$5 million:
affordable housing, air transport facilities, child care centres, community facilities, correctional centres, educational establishments, electricity generating works, electricity transmission or distribution networks, emergency services facilities, health services facilities, group homes, places of public worship, port facilities, public administration buildings, public ferry wharves, rail infrastructure facilities, research stations, road infrastructure facilities, roads, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, wharf or boating facilities,
 - (c) Crown development that has a capital investment value of more than \$5 million,
 - (d) development for the purposes of eco-tourism facilities that has a capital investment value of more than \$5 million,
 - (e) designated development,
 - (f) subdivision of land into more than 250 lots.
- (2) This Part also applies to development that has a capital investment value of more than \$5 million if:
 - (a) a council for the area in which the development is to be carried out is the applicant for development consent, or
 - (b) the council is the owner of any land on which the proposed development is to be carried out, or
 - (c) the development is to be carried out by the council, or
 - (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).

13C Coastal development to which Part applies

This Part applies to development within the coastal zone for any of the following purposes:

- (a) caravan parks and tourist and visitor accommodation:
 - (i) in the case of development wholly or partly in a sensitive coastal location outside the metropolitan coastal zone—that provide accommodation (or additional accommodation) for 10 persons or more, or
 - (ii) in the case of development wholly or partly in a sensitive coastal location in the metropolitan coastal zone—that provide accommodation (or additional accommodation) for 100 persons or more, or
 - (iii) in the case of development outside a sensitive coastal location that is not connected to an approved sewerage treatment work or system—that provide accommodation (or additional accommodation) for 25 persons or more,
- (b) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are greater than 13 metres in height, excluding any building that complies with all development standards relating to the height of such a building set by a local environmental plan that applies to the land on which the building is located,
- (c) subdivision of land that will lead to development that is not connected to an approved sewage treatment work or system into more than 5 lots but not more than 100 lots,
- (d) subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 25 lots but not more than 100 lots,
- (e) subdivision for rural-residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 5 lots but not more than 25 lots.

13D Development within western region

- (1) This Part does not apply to development carried out in the following local government areas:

Balranald, Bathurst Regional, Berrigan, Bland, Blayney, Bogan, Bourke, Brewarrina, Broken Hill City, Cabonne, Carrathool,

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Central Darling, Cobar, Conargo, Coonamble, Corowa Shire, Cowra, Deniliquin, Dubbo City, Forbes, Gilgandra, Griffith City, Hay, Jerilderie, Lachlan, Leeton, City of Lithgow, Mid-Western Regional, Murray, Murrumbidgee, Narrandera, Narromine, Oberon, Orange City, Parkes, Urana, Wakool, Walgett, Warren, Warrumbungle Shire, Weddin, Wellington, Wentworth

- (2) This clause ceases to have effect when a regional panel is constituted for the parts of the State covered by the local government areas listed in subclause (1).

13E Development within Wagga Wagga City area

- (1) This Part does not apply to development carried out in the local government area of Wagga Wagga City.
- (2) This clause ceases to have effect when the local government area of Wagga Wagga City is included in a part of the State for which a regional panel is constituted.

Division 3 Consent authority functions that may be exercised by regional panels

13F Council consent functions to be exercised by regional panels

- (1) A regional panel for a part of the State may exercise the following consent authority functions of the council or councils for that part of the State for development to which this Part applies:
 - (a) the determination of development applications, and applications for the modification of development consents previously granted by the panel, in accordance with Part 4 of the Act,
 - (b) without limiting paragraph (a), the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Act and sections 89A, 93I, 94, 94A, 94B, 94C, 94CA, 94EF, 94F, 95 (2), 96 (1A) and (2) and 96AA.
- (2) However, the following functions of a council as a consent authority are not conferred by this clause on a regional panel:
 - (a) the functions conferred by section 79B of the Act (other than section 79B (9)),
 - (b) the functions conferred by section 80A (7)–(10) of the Act,
 - (c) the functions conferred by sections 94 (5) and 94EF (5) of the Act,
 - (d) the receipt and assessment of development applications,

- (e) the determination and receipt of fees for development applications,
 - (f) notification of determination of development applications,
 - (g) the functions conferred by section 95A of the Act,
 - (h) the determination of applications for modification of consents on the ground of a minor error, misdescription or miscalculation under section 96 (1) of the Act.
- (3) The council remains the consent authority for development to which this Part applies, subject to the exercise by regional panels of functions conferred on them by this clause.

Note. The *Environmental Planning and Assessment Regulation 2000* also provides that a regional panel is taken not to be the council for specified provisions of the *Environmental Planning and Assessment Act 1979*.

13G Staged development functions

- (1) The functions of a council conferred on a regional panel extend to the determination of the separate development applications that form part of a staged development application, if:
- (a) the estimated capital investment value of the whole of the development likely to be covered by all the applicable development applications is an amount specified under clause 13B (1) (a)–(d) in relation to that type of development, or
 - (b) any of the development applications involves designated development or subdivision to create more than 250 lots.
- (2) The functions of a council conferred on a regional panel extend to the determination of the separate development applications that form part of a staged development application, if any of the development applications involves development referred to in clause 13C.

[7] Part 4, heading

Insert before clause 14:

Part 4 Miscellaneous

[8] Clause 16 Savings and transitional provisions

Insert at the end of clause 16 (2):

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[9] Clause 16 (2B)

Insert after clause 16 (2A):

- (2B) For the purposes of this clause, a reference to a development application made but not finally determined before the commencement of *State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 2009* includes a reference to a development application (whether or not made after that commencement) if it arises out of a staged development application made but not determined before that commencement.
- (2C) A reference in any instrument to the *State Environmental Planning Policy (Major Projects) 2005* is taken to be a reference to the *State Environmental Planning Policy (Major Development) 2005*.

[10] Schedule 1 Part 3A projects—classes of development

Omit clause 13 (1). Insert instead:

- (1) Development for the purpose of residential, commercial or retail projects with a capital investment of more than \$100 million.

[11] Schedule 1, clause 17 (c)

Insert “or a sensitive coastal location” after “State significance”.

[12] Schedule 2 Part 3A projects—specified sites

Omit clause 1 (1). Insert instead:

- (1) Development within the coastal zone for any of the following purposes:
 - (a) subdivision of land that will lead to development that is not connected to an approved sewage treatment work or system into more than 100 lots,
 - (b) subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 100 lots,
 - (c) subdivision for rural-residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location) into more than 25 lots.

[13] Schedule 2, clause 1 (1A)

Omit the subclause.

[14] Schedule 2, clause 1 (4)

Omit the definitions of *building*, *coastal lake*, *coastal zone*, *extractive industry*, *height*, *landfill facility*, *recreational or tourist facilities* and *sensitive coastal location*.