



New South Wales

# **State Environmental Planning Policy (State Significant Development) 2005 (Amendment No 1)**

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 Infrastructure and Planning.

CRAIG KNOWLES, M.P.,  
Minister for Infrastructure and Planning

## **State Environmental Planning Policy (State Significant Development) 2005 (Amendment No 1)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (State Significant Development) 2005 (Amendment No 1)*.

### **2 Aims of Policy**

The aims of this Policy are:

- (a) to revise and rename the *State Environmental Planning Policy (State Significant Development) 2005* as a consequence of the enactment of Part 3A (Major infrastructure and other projects) of the *Environmental Planning and Assessment Act 1979 (the Act)*, and
- (b) to provide that development declared under that Policy as State significant development (for which the Minister is the consent authority under Part 4 of the Act) is generally declared instead as major projects under Part 3A of the Act (for which the Minister is the approval authority under the separate streamlined and integrated development assessment and approval system instituted by that Part), and
- (c) to make other miscellaneous changes to that Policy.

### **3 Commencement of Policy**

This Policy commences on the commencement of Part 3A of the Act.

### **4 Land to which Policy applies**

This Policy applies to the State.

### **5 Amendment of State Environmental Planning Policy (State Significant Development) 2005**

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

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## Schedule 1 Amendments

(Clause 5)

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

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

**[2] Clause 2**

Omit the clause. Insert instead:

**2 Aims of Policy**

The aims of this Policy are as follows:

- (a) to identify development to which the development assessment and approval process under Part 3A of the Act applies,
- (b) to identify any such development that is a critical infrastructure project for the purposes of Part 3A of the Act,
- (c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,
- (d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes,
- (e) to rationalise and clarify the provisions making the Minister the approval authority for development and sites of State significance, and to keep those provisions under review so that the approval process is devolved to councils when State planning objectives have been achieved.

**[3] Clauses 6 and 6A**

Omit clause 6. Insert instead:

**6 Identification of Part 3A projects**

- (1) Development that, in the opinion of the Minister, is development of a kind:
  - (a) that is described in Schedule 1 or 2, or
  - (b) that is described in Schedule 3 as a project to which Part 3A of the Act applies, or

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- (c) to the extent that it is not otherwise described in Schedules 1–3, that is described in Schedule 5,  
is declared to be a project to which Part 3A of the Act applies.
- (2) However, any such development does not become a project to which Part 3A of the Act applies by the operation of subclause (1) if:
  - (a) the carrying out of that development has been authorised by a consent that is in force under Part 4 of the Act before development of that kind is declared under subclause (1), or
  - (b) the continuation of the carrying out of that development would be authorised by section 109 of the Act if it were not a project to which Part 3A of the Act applied, or
  - (c) the Act or the regulations under the Act provide that Part 3A of the Act does not apply to the carrying out of that development (or to the determination of a pending development application under Part 4 of the Act with respect to that development).

### Notes.

1. Under section 75B of the Act, development may be declared by a State Environmental Planning Policy or Ministerial Order to be a project to which Part 3A applies.
2. The Minister is the approving authority for such projects and they are generally excluded from Parts 4 and 5 of the Act.
3. Section 75R of the Act limits the application of environmental planning instruments in relation to approved projects, but any prohibition on development imposed by any such instrument continues to apply to any project other than a critical infrastructure project.
4. Schedule 6 to the Act provides that Part 3A of the Act does not apply to the determination of a development application for State significant development that is pending on the commencement of that Part and is not withdrawn by the applicant).

### 6A Identification of projects as critical infrastructure projects

Development that, in the opinion of the Minister, is described in Schedule 5, is also declared to be a critical infrastructure project.

**Note.** Under section 75C of the Act, projects to which Part 3A apply may also be declared to be critical infrastructure projects to which additional provisions in Part 3A apply. When inserted into this Policy, Schedule 5 did not contain the description of any project.

**[4] Clauses 7 (1) and 8 (1) (a)**

Omit “State significant development” wherever occurring.

Insert instead “a project to which Part 3A of the Act applies”.

**[5] Clause 9 Public and council consultation in relation to assessment of State significant development**

Omit the clause.

**[6] Clause 9A**

Insert before clause 10:

**9A Development for which Minister consent authority under Part 4**

The Minister is the consent authority under Part 4 of the Act for any development requiring consent under that Part that, in the opinion of the Minister, is of a kind described in Schedule 6 and is not a project to which Part 3A of the Act applies.

**[7] Clause 10**

Omit the clause. Insert instead:

**10 Exclusion of certain complying development**

(1) If, but for this clause:

- (a) particular development would be a project to which Part 3A of the Act applies because of this Policy, and
- (b) an environmental planning instrument (whether made before or after this Policy takes effect) provides that the particular development is complying development, and
- (c) the particular development is not carried out as part of or in conjunction with other development that is a project to which Part 3A applies,

the particular development is not such a project, despite clauses 6 and 6A.

(2) If, but for this clause:

- (a) particular development would be development for which the Minister is the consent authority because of clause 9A, and
- (b) an environmental planning instrument (whether made before or after this Policy takes effect) provides that the particular development is complying development, and

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- (c) the particular development is not carried out as part of or in conjunction with other development for which the Minister is the consent authority,  
the Minister is not the consent authority for the particular development, despite clause 9A.

**[8] Clause 11**

Omit the clause. Insert instead:

**11 Subdivision certificates for Part 3A projects**

Subject to section 75S of the Act, a subdivision certificate may be issued by an accredited certifier for a subdivision that is a project to which Part 3A of the Act applies in accordance with section 109D (1) (d) (iv) of the Act.

**[9] Clause 12 Walsh Bay—designated consent authority**

Insert “development that continues to be dealt with under the Act as” before “State significant development” in clause 12 (a).

**[10] Clause 12 (2)**

Insert at the end of clause 12:

- (2) This clause does not affect the operation of Part 3A of the Act in relation any development at Walsh Bay that is a project to which that Part applies.

**[11] Clause 14 Transitional provisions**

Omit clause 14 (2). Insert instead:

- (2) Subject to subclause (3), this Policy does not operate to make the carrying out of development for the purposes of a mine, as described in item 7 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, a project to which Part 3A of the Act applies if the carrying out of the development would be prohibited or require consent but for the authority conferred by the adoption of clause 35 and that item of those Model Provisions under an environmental planning instrument applying to the land concerned.
- (3) Subclause (2) ceases to have effect:
- (a) in relation to development carried out underground—on the fifth anniversary of the commencement of Part 3A of the Act, or

- (b) in any other case—on the second anniversary of that commencement.

**[12] Clause 15 Review of Policy**

Omit clause 15 (1). Insert instead:

- (1) The Minister must ensure that the provisions of this Policy are reviewed:
- (a) as soon as practicable after the first anniversary of the commencement of Part 3A of the Act, and
- (b) at least every 5 years thereafter,
- to ensure that the provisions continue to be appropriate for identifying Part 3A projects consistently with sections 75B and 75C of the Act.

**[13] Clause 15 (2)**

Omit “State significant development meets”. Insert instead “projects meet”.

**[14] Schedule 1, heading**

Omit “State significant development” from the heading to Schedule 1.

Insert instead “Part 3A projects”.

**[15] Schedule 1, clause 5 (3) (a)**

Omit “State significant development”.

Insert instead “another Part 3A project”.

**[16] Schedule 1, clauses 6 (2) (a) and 7 (2) (a)**

Omit “other State significant development”.

Insert instead “another Part 3A project”.

**[17] Schedule 1, clause 24 (a)**

Insert “, or wind generation” after “solar power generation”.

**[18] Schedule 1, clause 24 (b)**

Omit the paragraph.

**[19] Schedule 1, clause 26**

Insert at the end of the clause:

- (2) This clause does not apply to development if the proponent is a public authority.

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**[20] Schedule 2, heading**

Omit “State significant development on specified” from the heading to Schedule 2.

Insert instead “Part 3A projects—specified”.

**[21] Schedule 2, clause 3 (Kosciuszko Ski Resorts)**

Omit the clause and the note to the clause.

**[22] Schedule 2, clauses 10 (1), 13 and 14**

Insert “(with a capital investment value of more than \$5 million)” after “Development” wherever occurring.

**[23] Schedule 3 State significant sites**

Omit the heading to Division 1 of Part 1. Insert instead:

**Division 1 Part 3A projects**

**[24] Schedule 3, clause 1**

Omit the heading to the clause. Insert instead:

**1 Part 3A projects**

**[25] Schedules 5 and 6**

Insert at the end of the Policy:

**Schedule 5 Critical infrastructure projects**

(Clauses 6 and 6A)

**Note.** This Schedule was blank when inserted into this Policy.

**Schedule 6 Minister consent authority for Part 4 development**

(Clause 9A)

**1 Sydney Harbour Foreshore Sites**

Development (with a capital investment value of not more than \$5 million) within the area identified on the following maps to Schedule 2:

- (a) Circular Quay—Map 9,
- (b) Rocks to Dawes Point—Map 9,



- (c) Walsh Bay—Wharf 2–3—Map 9,
- (d) East Darling Harbour—Wharfs 3–8—Map 9,
- (e) Darling Harbour—Map 9,
- (f) Banks Street precinct and Fish Markets—Map 9,
- (g) Sydney Casino Switching station site—Map 9,
- (h) Luna Park—Map 10.

**2 Redfern–Waterloo Authority Sites**

Development (with a capital investment value of not more than \$5 million) within the area identified on Map 16 to Schedule 2.

**3 Sydney Olympic Park**

Development (with a capital investment value of not more than \$5 million) within the area described in Schedule 1 to the *Sydney Olympic Park Authority Act 2001*.