

Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Direction 2021

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Public Spaces, in pursuance of section 7.24 of the *Environmental Planning and Assessment Act 1979*, give the following Direction.



Minister for Planning and Public Spaces

Dated: 7th December, 2021.

1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Direction 2021*.

2 When Direction takes effect

This Direction takes effect on the date of its publication in the Gazette.

3 Councils and other planning bodies to whom Direction is given

- (1) This Direction is given to:
 - (a) consent authorities in relation to development within the Frenchs Forest Special Contributions Area, and
 - (b) councils and registered certifiers when determining applications for complying development certificates in relation to development within the Frenchs Forest Special Contributions Area.
- (2) To avoid doubt, this Direction also applies to:
 - (a) any local planning panel when exercising, on behalf of a council constituted for a local government area that includes land within the Frenchs Forest Special Contributions Area, the functions of the council as a consent authority, and
 - (b) any officer or employee of such a council to whom the council delegates its functions as a consent authority.

Note. The consent authorities to whom the direction is given includes Northern Beaches Council and Sydney North Planning Panel. The Independent Planning Commission is also subject to the direction when determining development applications for development in the special contributions area.

4 Condition for special infrastructure contribution to be imposed on grant of development application

A consent authority must impose the following condition on the grant of consent to a development application to carry out development that consists of, or involves, development for the purpose of residential accommodation within the Frenchs Forest Special Contributions Area if a special infrastructure contribution is required to be made for that development under the *Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021*:

A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021 (as in force when this development consent takes effect).

A person may not apply for a construction certificate in relation to development the subject of this development consent unless the person provides, with the application, written evidence from the Department of Planning, Industry and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

More information

A request for assessment by the Department of Planning, Industry and Environment of the amount of the contribution that is required under this condition can be made through the NSW planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to SIContributions@planning.nsw.gov.au.

5 Condition for special infrastructure contribution that must be imposed on CDC by Council

A council must impose the following condition on the grant of any application for a complying development certificate to carry out development that consists of, or involves, development for the purpose of residential accommodation within the Frenchs Forest Special Contributions Area if a special infrastructure contribution is required to be made for that development under the *Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021*:

A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021 (as in force when this complying development certificate takes effect).

Accordingly, the special infrastructure contribution must be made:

- (a) within 60 days of the date endorsed on this certificate as the date on which it becomes operative or, if this certificate is a “deferred commencement” certificate (being a certificate subject to a condition of a kind referred to in section 4.28 (9A) of the Environmental Planning and Assessment Act 1979), within 60 days of it operating, or*
- (b) before the commencement of any work authorised by this certificate,*

whichever is the earlier.

More information

A request for assessment by the Department of Planning, Industry and Environment of the amount of the contribution that is required under this condition can be made through the NSW planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to SIContributions@planning.nsw.gov.au.

6 Condition for special infrastructure contribution that must be imposed on CDC by registered certifier

A registered certifier must impose the following condition on the grant of any application for a complying development certificate to carry out development within the Frenchs Forest Special Contributions Area if it is complying development under the Housing Code, or Low Rise Housing Diversity Code, within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*:

The proponent (being the person having the benefit of this complying development certificate) must obtain a determination from the Secretary of the Department of Planning, Industry and Environment as to whether a special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021 (Determination):

- (a) *within 20 working days of the date endorsed on this certificate as the date on which it becomes operative, or*
- (b) *if this certificate is a “deferred commencement” certificate (being a certificate subject to a condition of a kind referred to in section 4.28 (9A) of the Environmental Planning and Assessment Act 1979), within 20 working days of it operating.*

If the Secretary determines that a special infrastructure contribution must be made, the contribution must be made in accordance with the Determination. Accordingly, the contribution is to be made as a monetary contribution:

- (a) *within 60 days of the date endorsed on this certificate as the date on which it becomes operative or, if this certificate is a “deferred commencement” certificate, within 60 days of it operating, or*
- (b) *before the commencement of any work authorised by this certificate,*

whichever is the earlier.

More information

A request for assessment by the Department of Planning, Industry and Environment of the amount of the contribution that is required under this condition can be made through the NSW planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to SIContributions@planning.nsw.gov.au.

7 Special condition where concept development application

- (1) This clause applies to a concept development application within the meaning of section 4.22 of the *Environmental Planning and Assessment Act 1979* if the concept proposals for the development of the site include proposals for residential

accommodation within the Frenchs Forest Special Contributions Area (*residential concept development application*).

- (2) A consent authority must impose the following condition on the grant of consent to a residential concept development application (other than a consent to which subclause (3) applies):

The Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021 requires special infrastructure contributions to be made for development that consists of, or involves, development for the purpose of residential accommodation within the meaning of that Determination.

Accordingly, any special infrastructure contribution imposed by a condition of consent to a subsequent development application in relation to the site to which this consent applies is to be determined in accordance with that Determination, or any subsequent determination of the Minister under section 7.23 of the Environmental Planning and Assessment Act 1979, as in force when the later consent takes effect.

- (3) A consent authority must impose the following condition on the grant of consent for the first stage of development consisting of, or involving, residential accommodation set out in a residential concept development application if the *Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021* requires a special infrastructure contribution to be made for that development:

A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021 (2021 Determination), as in force when this consent takes effect, for the first stage of development to which this consent applies.

A person may not apply for a construction certificate in relation to the first stage of development unless the person provides, with the application, written evidence from the Department of Planning, Industry and Environment that the special infrastructure contribution for the first stage of development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

A special infrastructure contribution may also be required to be made for further development that consists of, or involves, development for the purpose of residential accommodation within the meaning of the 2021 Determination on the site to which this consent applies.

Any special infrastructure contribution imposed by a condition of consent to a subsequent development application is to be determined in accordance with the 2021 Determination, or any subsequent determination of the Minister under section 7.23 of the Environmental Planning and Assessment Act 1979, as in force when that later consent takes effect.

More information

A request for assessment by the Department of Planning, Industry and Environment of the amount of the contribution that is required under this condition can be made through the NSW

planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to SIContributions@planning.nsw.gov.au.

Note to consent authorities. When imposing a condition for a special infrastructure contribution on the grant of consent to a subsequent development application to which consent to a concept development application applies, the consent authority is to impose the condition in the terms set out in clause 4 of this Direction.

8 Pending development applications

This Direction extends to development applications and applications for complying development certificates made, but not finally determined, before this Direction takes effect.

9 Definitions

(1) In this Direction:

residential accommodation has the same meaning as it has in the *Environmental Planning and Assessment (Special Infrastructure Contribution – Frenchs Forest) Determination 2021*.

Frenchs Forest Special Contributions Area means the special contributions area of that name, as described in Schedule 4 to the *Environmental Planning and Assessment Act 1979*.

(2) Words or expressions in this Direction have the same meanings as they have in the *Environmental Planning and Assessment Act 1979*.
