

**NSW LEGISLATIVE COUNCIL**

**STANDING COMMITTEE ON STATE DEVELOPMENT**

**INQUIRY INTO REGIONAL PLANNING PROCESSES**

**IN NSW**

**Department of Planning and Environment**  
**Response to Questions on Notice**

## Contents

1	Introduction.....	3
2	Migratory Trends .....	3
3	Schematic of Planning Processes.....	4
4	Standard Instrument Local Environmental Plan .....	6
5	E zones Review.....	6
6	E-Planning Statistics .....	8
7	Impact of council mergers on regional planning expertise .....	10
8	NSW Aboriginal Land Council Submission .....	11
9	Regional Offices .....	11
	Attachment A – A4 schematic of Planning Process.....	14
	Attachment B – Standard Instrument for Local Environmental Plans .....	15
	Attachment C – Northern Councils E Zone Review .....	16

## 1 Introduction

On Friday 11 March, 2016, The Department of Planning and Environment appeared as a witness (as a part of a whole of Government panel), before the hearing for the Inquiry into Regional Planning Processes in NSW. At that time the Department took 8 questions on notice so as to provide the Committee with more detailed responses.

This supplementary submission responds to those questions on notice, although the response to question in relation to the NSW Aboriginal Land Council's submission requires further consideration and across Government coordination. Leave is being sought to provide a more detailed response at a later date.

## 2 Migratory Trends

### Question

*Can you provide the Committee with the most recent migratory trends, intra-trends for New South Wales? Can you do that from post code to post code? How do you carry it out?*

### Response:

The Committee asked for more advice on migration trends as part of its understanding of how the regional plans are developed. Migration occurs when people move to NSW from overseas and interstate, when people leave NSW for overseas or interstate and movements within New South Wales. Analysis of migration and the resultant age profiles of the people moving to and from regions then underpin the population projections that inform regional planning.

### **Migration Trends**

New South Wales has a highly mobile population. For example, at the time of the 2011 Census, 2 million had moved from where they were living at the time of the 2006 Census, meaning 29% of the State's population had moved residences.

To understand and analyse migration trends the Department uses both Census and other data produced by the Australian Bureau of Statistics. This allows an understanding of:

- overseas migration;
- interstate migration; and
- intrastate migration.

Intrastate migration is an important factor affecting local populations. Most people who move only move short distances. Just under half of all moves between 2006 and 2011 were within the same LGA and almost three-quarters of moves were less than 30km.

The interaction of the age of a population and the age when people are likely to move is a key factor influencing population changes over time. Analysis of the migration trends suggest most moves are concentrated among people in their 20s and early 30s. The strongest age related migration trend is that many people in their late teens and early 20s move to Sydney or major regional centres to access educational, training or employment opportunities. The reverse is true in many LGAs for people in their late 20s and 30s.

Metropolitan Sydney has a different pattern, gaining people aged between 15 and 24 from intrastate migration, and losing people for all other age groups.

The other major age related migration trend is that people become less likely to move as they get older. The main exception to this is for people around retirement age, with many retirees choosing to move from Sydney and inland areas to the north, central and south coast.

#### **Availability of migration data**

As one of the assumptions behind the Department's population projections, fact sheets on overseas, interstate and intrastate migration trends are available from the Department's website:

<http://www.planning.nsw.gov.au/Research-and-Demography/Demography/Population-Projections>

#### **Use of projections in regional plans**

Regional Plans use the population projections produced by the Department to understand the expected population and housing needs of our cities, towns and council areas. However, the Regional Plans also use other information to identify where the most appropriate locations to encourage growth may be. As a consequence, the Plans do not see the projections as the limit of growth, but simply the most likely pattern of growth based on past trends.

Population projections do not prevent Regional Plans identifying additional capacity for growth in places that are strategically suited for development. As an example, while the Illawarra-Shoalhaven Regional Plan recognises that existing zonings already provide enough capacity to meet expected housing demands, the Plan encourages additional zonings and development potential in the places that are best suited to boosting economic and social outcomes close to town centres or along railway corridors.

### **3 Schematic of Planning Processes**

#### Question

*Is it possible to get an A4 schematic or flow chart about the planning processes and instruments that people have to work their way through? If I were to submit a development application to Young Shire Council, for instance, how would I move through what appear to be a plethora of instruments?*

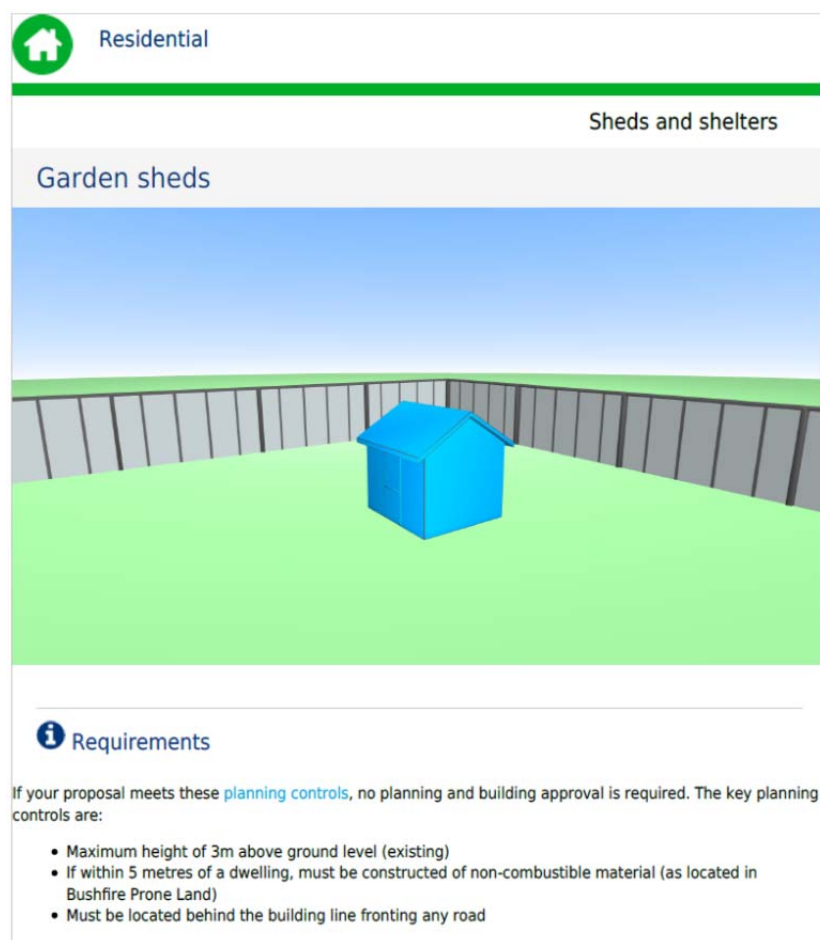
#### Response:

A 'planning system' on a page diagram is provided in Attachment A. The diagram shows the interaction of the various parts of the planning system (based on the 'Parts' of the enabling legislation – *Environmental Planning and Assessment Act, 1979*), as well as the different types of development streams (development without consent, with consent and prohibited development). The diagrams show the diversity of the planning system and how different requirements and processes are tailored to the complexity of the development, as an example exempt and complying developments are for relatively simple development proposals, while State significant development or State significant infrastructure provide a robust assessment process for large scale and non-routine developments.

E-planning systems are continuing to making it easier to comprehend the planning system. Tools such as the e-housing code, or the interactive buildings tool allow any person to quickly identify whether they can build a shed, garage, bedroom addition or a new house. As e-planning systems evolve it will be possible to ask two direct questions as a landowner to more easily navigate the planning system:

- 1) What are the planning requirements that apply to my land (zoning, development controls, height and setbacks), and
- 2) What type of development can be done on my land?

The diagram below shows an excerpt from the Interactive Buildings Tool relating to the requirements for a garden shed. The tool provides both graphical and written detail, as well as tailoring the requirements to the zoning and other requirements that may apply to land, for example bushfire prone land.



Source: <http://interactivebuildings.planning.nsw.gov.au/>

To simplify the planning system there has been a lot of effort to reduce the number of different places that land owners and development proponents need to go to answer the two questions identified above. This work to reduce the complexity of the planning system has seen:

- The introduction of the standard instrument local environmental plan into every council across the State – the aim is to have just one local environmental plan for every council area;
- The introduction of a single development control plan applying to every council area; and

- The collapsing of old and out of date State and regional plans and updating State planning policies based on key landuse themes.

## 4 Standard Instrument Local Environmental Plan

### Question

*Earlier the committee hear evidence about the way that the standard local environmental plans have been adopted and about a template that apparently came from your department to various councils. The Committee would like to see that template?*

### Response:

The Committee has asked to have a copy of the standard instrument local environmental plan template. Attachment B contains a copy of the *Standard Instrument (Local Environmental Plans) Order, 2006* (SI Order).

The SI Order contains the 'shell' of a standard instrument local environmental plan, including the zones, objectives, standard clauses and landuse definitions. The SI Order also contains directions and drafting notes that assist councils when preparing their local environmental plan.

When using the SI Order to make a local environmental plan a council will need to add its own local requirements such as: choosing the zones it will use; identifying where the zones will apply; the sorts of landuses that should be allowed in those zones; and, the types of development standards to apply to their area. Without this local input it is not possible to simply create a local environmental plan from the SI Order.

The Department has produced extensive sets of practice notes and other guidance materials to assist councils in preparing their plans. This has ensured a standardised approach, which helps to reduce complexity, but still allows councils a great degree of flexibility in how they structure the planning requirements for their areas.

## 5 E zones Review

### Question

*There was discussion about E zones. Is there a template or some other instruction as to how council were to go about that?*

### Response:

The North Coast E Zones Recommendations Report achieves a balanced approach that supports farming and protects the environment, by recommending that E zones should only be applied to places on the Far North Coast where the 'primary use' of the land is either environmental conservation ('E2') or environmental management ('E3'), and this has been based on validated ecological evidence.

These recommendations apply to Ballina, Byron, Kyogle, Lismore and Tweed Shire Councils. Other Councils can utilise these recommendations to assist in applying E zones.

Implementation of the report is based on an understanding of two critical issues: the primary use of land and the ecological values of any vegetation.

A Ministerial Direction has been prepared to guide the decisions of councils and the Department in implementing the E Zones recommendations. The Department has also written to each North Coast council to provide a copy of the direction, a fact sheet on implementation and key issues that will be considered when the council is preparing zoning proposals, as well as the Department's approach in assessing those zoning proposals.

### **Primary use**

The 'primary use' of the land will be the key focus for councils when they are making zoning decisions. Where the primary use of the land is agriculture, it will not be appropriate for the land to be zoned E2 or E3. Instead a Vegetation Map (i.e. environmental overlay) may be applied to land that contains important environmental features.

'Primary use' is defined as the main use for which the land has been used for the last two years. The primary use of the land may vary across a particular property, depending on the characteristics of the land. This may result in more than one zone being applied to the land. The primary use of land will need to be identified by the Council during the preparation of a rezoning.

Understanding what the main use of the land has been will be based on evidence about the nature of the activities and operations occurring on the land over the last two years. If the main use has been for rural or farming operations, agricultural practices need to be demonstrated. Specific farming activities (such as grazing), do not need to have occurred in the last two years if the operations on the land (for example keeping paddocks fallow), are part of broader farm management practices. If the main use is for environmental conservation or management, the environmental values of the land and vegetation need to be demonstrated and the absence of any agricultural or other land use confirmed.

Determining the primary use will require the use of methodologies such as site visits, property development records, farm management plans, up to-date aerial photography, Private Native Forestry or Property Vegetation Plan approvals, conservation records and discussion with landowners.

### **The steps and considerations for 'E2 and 'E3' zoning under the recommendations?**

Councils will first consider the primary use of the land. If the primary use is found to be environmental management or environmental conservation, then the Council will need to weigh the ecological evidence to verify whether the area qualifies for E2 or E3 zoning.

Land can only qualify for an E2 or E3 zone if it is home to rainforests, wetlands, endangered plant species or vegetation that has been over cleared in other areas, or is a place of cultural significance to the local Aboriginal community.

If a council determines the primary use of the land is not environmental management or environmental conservation, but the land has important ecological attributes, the Council may instead opt to include the vegetation on a Vegetation Map (i.e. environmental overlay).

Before an E zone or Vegetation Map can be put in place, evidence of the land's environmental value needs to be verified by tests such as flora and fauna reports, biodiversity field inspections and ground surveys, or Aboriginal heritage field inspections and cultural heritage reports. It will not be sufficient for a Council to rely on one methodology.

### **Ability of land owners to ask for a review**

All proposals to apply an E zone to land will be placed on public exhibition and landowners will be able to make a submission to the proposal. In the event that a landholder does not agree that their land meets the primary use or validation criteria for an E zone, the NSW Chief Planner has been appointed by the Minister for Planning to undertake an independent review. The Chief Planner will make a decision on the dispute, based on an assessment of the evidence provided by both Council and the landholder.

Councils will be required to notify landholders once it resolves to adopt an E zone following a review of submissions. Landholders will have 28 days from Council's notification of the adoption of the final proposed zones to notify the Department of their request for a review by the Chief Planner.

### **More information**

A copy of the E-zone review is at Attachment C. In addition, the Department's website contains more advice for councils in implementing the E Zones Report, including the Ministerial direction and other guidance materials. These documents can be found at:

<http://www.planning.nsw.gov.au/environmentalzones>

## **6 E-Planning Statistics**

### Question

*Are there any statistics to show that e-planning is productive and that things are getting better because we are doing them electronically?*

### Response:

The Committees has asked for information about the productivity improvements that e-planning has provided. One of the great strengths of e-planning is that it makes the interaction with the planning system easier, more certain and quicker. As noted earlier, the questions land owners typically have of the planning system is: what planning requirements apply to my land; and what development can I do on my land?

The e-Housing Code and the Interactive Buildings Tool are two examples of e-planning that are making it easier for land owners to answer the two questions identified above.

The e-Housing Code continues to expand and now can be used in 122 of the State's 152 councils. The success of the Code can be seen in the fact that between July 2015 and February 2016 there were 95,000 inquiries as to whether a complying development certificate could be issued for a development. This makes what is already a 7 day process of assessment even quicker.

The Interactive Building Tool, which allows a land owner to identify what they can do on their land without the need for an approval, has been in operation since July 2014. In this time over 50,000 users have launched 76,000 enquiries on whether particular types of development need an approval. This gives a landowner both the certainty and confidence to undertake minor developments on their land.



### Accessing e-planning through the Planning Portal

The Planning Portal is the gateway to e-planning and provides greater access to the planning system, simplifies the planning process and provides greater transparency for everyone involved in the planning process. The focus of e-Planning is the transformation of traditional paper-based and face-to-face interactions to an online environment where people can access planning services from anywhere, at any time.






Councils will benefit from the implementation of e-Planning by better access to information and data, policies and access to packaged business solutions which councils can easily consume and integrate into their systems thereby enabling the community to self-serve rather than providing resources for face-to-face transactions. This delivers a consistent experience for users across the State as well as real time and cost savings. E-Planning will benefit regional areas that traditionally do not have good access to data and planning services – this new way of doing business is levelling the information playing field between regional and metropolitan areas.

E-Planning gives communities the power to access information that has traditionally not been available in regional areas. Greater access has made it easier to streamline a number of planning assessment processes, giving the community easier interactions with the planning system and the ability to 'self-serve'. This delivers consistency and time cost savings that are proportionally greater for regional areas and gives them access to the economies of scale savings experienced by users in metropolitan areas.

### Planning Portal Use

The NSW Planning Portal provides access to information through the 'lens' of the end user to help people investigate development opportunities. The Planning Portal provides a range of functionality including a property details page which provides comprehensive information about land and property constraints which apply to a lot or a specified property address such as land zoning, bushfire, heritage etc.

The statistics provided below indicated the significant increase in site traffic for the NSW Planning Portal since it was introduced on 30 November 2015.

Activity	NSW Planning Portal		Planning Hub and Planning Viewer		Results
	Calculation on 4 months since 30 Nov 2015	Average per month R2	Calculation on 19 months since July 2014	Average per month	Planning Portal Results per month compared to Planning Hub + Viewer
Sessions	179,242	44,811	44,811	24,763	
Users	56,835	14,209	14,209	4,943	
Page Views	724,362	181,091	181,091	24,327	
Pages per session	4.04	n/a	n/a	n/a	
Average session duration	5.53 min	n/a	n/a	n/a	

#### Notes:

- The usage figures for the Planning Hub and (R1) Planning Viewer relate to a 19 month period from July 2014
- The usage figures for the NSW Planning Portal relate to a 4 month period from 30 November 2015
- The Planning Hub was decommissioned on 30 November 2015. The (R1) Planning Viewer was decommissioned on 26 January 2016.

Information in the Portal is displayed on an easy to use page that includes a Google map style interface. The tool also helps to quickly navigate the planning controls that apply to individual land parcels in proximity to your chosen address. For some councils this is a new service that has not been available in-house and/or to their community before now. This means for the first time the community can access information online they would normally have to go directly to council for example a comprehensive property report. The Planning Portal is a great example of how the gap in services offered between metro and regional councils is being closed.

As the NSW Planning Portal provides access to information to help people prepare, lodge and track development applications. As part of the implementation of this project, all Councils across the state have been able to:

- improve the quality and integrity of their land based information
- streamline business processes across a number of key areas such as data management, application management, etc
- improve their customer service offering to the community.

### **Services to come**

The Department of Planning and Environment is committed to continuously improving the way information and data can be managed and shared across the State. The Planning Portal deployment plan provides for new functional on a monthly basis. Functionality which will be provided in the fourth quarter of 2016 which will allow mums and dads as well as planning professionals to prepare, lodge, pay for and track development applications. The Portal provides convenient access to a range of e-Planning tools and services including BASIX and the Electronic Housing Code. The Department of Planning and Environment is currently gathering requirements from a range of users of the planning system to inform what an online lodgement system would look like and how they would prefer it to work. A range of metro and regional councils are assisting with the design of this tool.

## **7 Impact of council mergers on regional planning expertise**

### Question

*Fit for the Future reform is causing anxiety in regional areas right now. KPMG, Ernst & Young and others have provided statistics to government. Statistics on council mergers make the bottom line look good because there are fewer councillors. One of the big factors is that a lot of backroom staff will be moved on. Is there a concern that that will have implications in the rural and remote areas and that we will lose opportunities out there because people will no longer have the expertise ... in a planning and assessment capacity?*

### Response – provided by Office of Local Government:

The Local Government Act 1993 provides employment protections for staff that are employed by councils that are subject to a merger proposal and for those staff that are transferred to a newly merged council. These protections do not apply to senior staff who are employed on separate contracts.

The Act provides protection for staff from forced redundancy during the period from which a merger proposal is made up to the day the Minister makes a decision on that merger proposal.

The Act also provides that if the employment of a staff member is transferred from an existing council to a new merged council, that staff member may not be involuntarily

terminated on the grounds of redundancy within three years following the date the staff member's employment is transferred.

In addition, the Act provides some further protection for staff based on location and employment conditions. In the event of a merger, all staff employed by merging councils would be transferred to the new council entity, continuing on the same terms and conditions of employment.

There are some additional protections for staff in rural centres under section 218CA of the Act. A rural centre for this purpose is a centre of population that has a population of 5,000 people or less.

In such areas, any new council entity must ensure that the number of regular staff (permanent and casuals engaged on a regular and systematic basis) is maintained at the same level as before a merger occurs, as far as is reasonably practicable.

During this time, staff cannot be terminated on the grounds of redundancy unless they agree to the termination.

Larger councils with greater scale and capacity will provide increased opportunities for councils to attract and retain professional staff, including those with planning and assessment expertise.

The establishment of Joint Organisations will also provide additional opportunities for professional staff to contribute to regional scale projects that deliver outcomes for local communities, increasing the career opportunities for staff in regional areas.

## 8 NSW Aboriginal Land Council Submission

### Question

*It would help us – this is a bit unusual, I suppose – because we have had quite a bit of evidence in relation to some of these issues, if you, Mr Murray or Mr Barnes, could take from me the Aboriginal Land Council submission No. 25 and on notice give us some responses to that so that we have the answers.*

### Response:

A response to the recommendations contained within the NSW Aboriginal Land Council's submission will be provided in a separate submission.

## 9 Regional Offices

### Question

*We have had some quite good comments about the regional offices but they have been followed with concerns that they are perhaps not resourced or trained enough and they are not able to make decisions. Could you on notice give us an outline of where the offices are, what resources they have and what delegations they have to be able to make decisions?*

Response:

**Location of regional offices**

The Department has 9 separate office locations:

- Wollongong
- Queanbeyan
- Dubbo
- Newcastle
- Gosford
- Grafton
- Tamworth
- Jindabyne
- Singleton

The regional teams undertake a range of functions including:

- assessing planning proposals and rezoning land;
- assessing and granting concurrence to planning applications;
- developing regional strategic plans and regional policy in partnership with stakeholders;
- liaising and assisting local councils on planning matters;
- liaising with government agencies to assist in resolution of planning issues; and
- compliance

Resourcing in each location depends on the functions undertaken. For example some offices do not undertake compliance.

**Regional office decision making**

Each regional office has broad decision making powers and delegations. The relevant regional director is able to approve most council requests for rezoning and changes to their planning controls, as well as to approval the strategic land use plans of councils.

In addition the regional offices have the authority to give approvals and concurrences to councils for matters relating to:

- variations of development standards, for example lot size controls;
- developments adjacent to or within coastal wetlands or rainforests; and
- approval of Koala Plans of Management under *State Environmental Planning Policy No.44 – Koala Habitat Protection*.

Regional directors, under delegation, made 85% of decisions on council rezoning requests in 2014-2015. The remaining 15% of decisions were made by the Department's executives based on the advice of the regional teams. The types of issues that require referral to the Executive are:

- if the proposal to rezone land or change planning controls is not supported, or a condition is being sought to impose a significant change to the proposal; or
- if the proposal is contentious because it is not consistent with strategic planning for the area, or has been the subject of community discussion.

During the same period Council's finalised 132 rezoning under delegation.

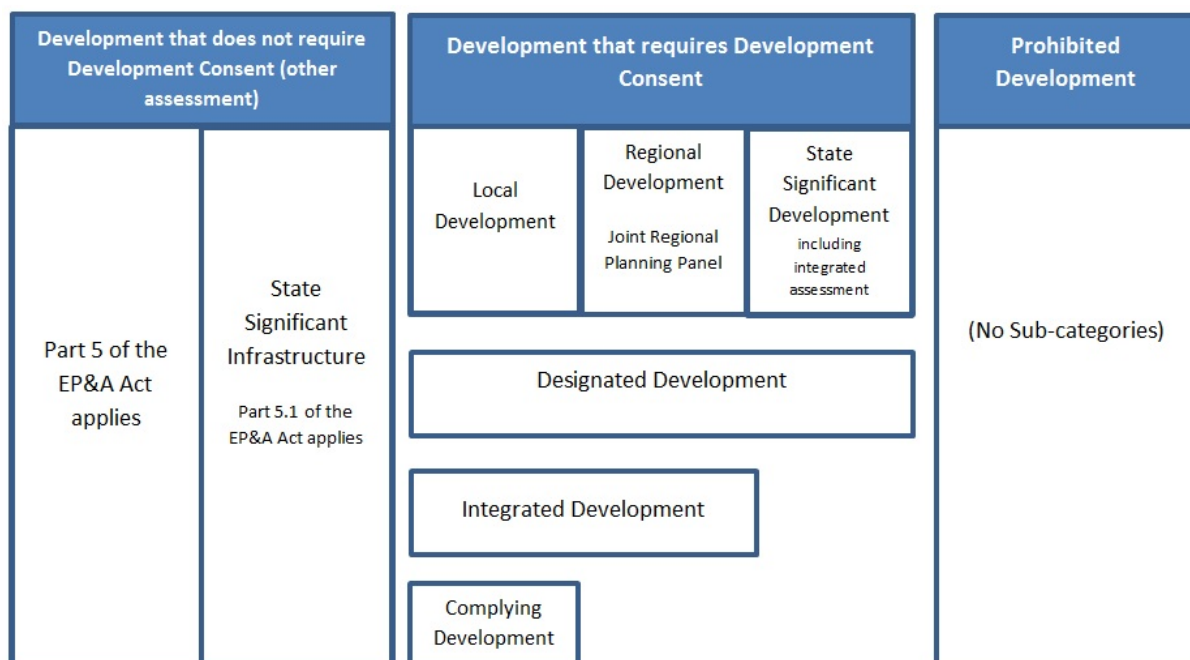
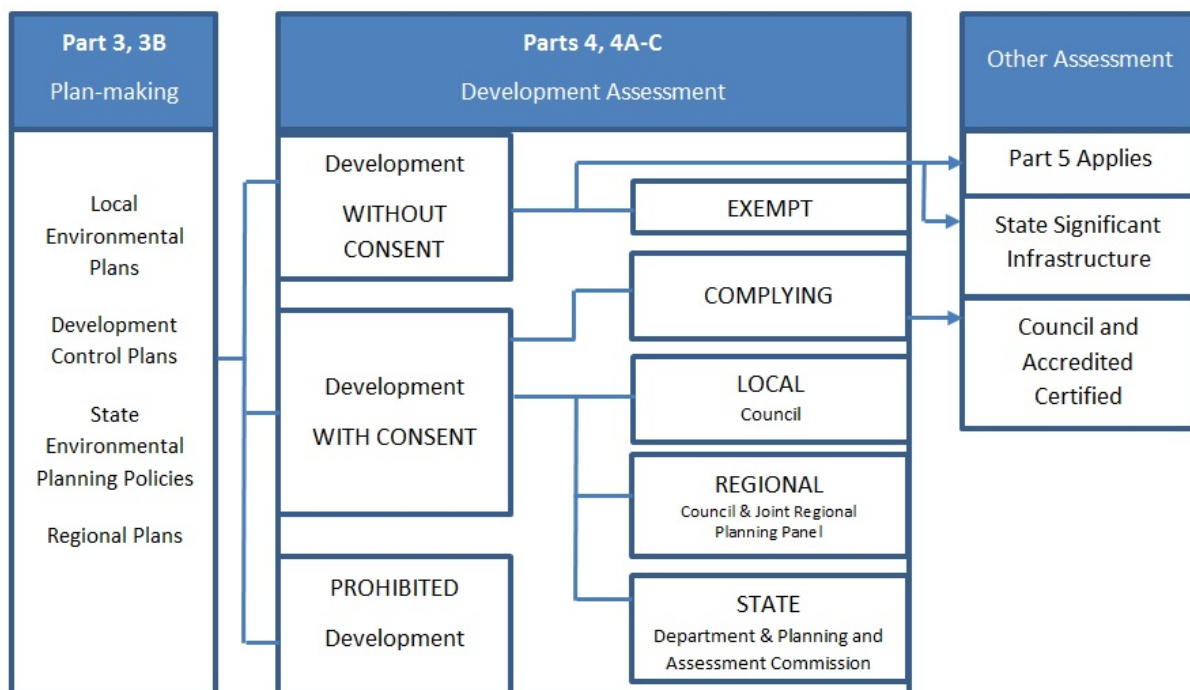
**Regional office involvement in regional strategic planning**

The regional offices have been undertaking consultation and preparing the regional plans. This ensures the regional plans reflect local issues and incorporate the matters that are raised by councils when the plans are being prepared. The Government's submission to the

Inquiry identified the regional plans that are being developed and the likely timing for their release.

Implementation of the regional plans will also be the responsibility of the regional offices. As an example, the implementation of the Illawarra-Shoalhaven Regional Plan has been already been commenced by the Department's Southern Region. Due to the diversity of regional areas, the implementation of the regional plans will be tailored to suit the way in which community, industry, councils and State/Commonwealth agencies engage and collaborate.

## Attachment A – A4 schematic of Planning Process



## **Attachment B – Standard Instrument for Local Environmental Plans**

## **Attachment C – Northern Councils E Zone Review**





New South Wales

# Standard Instrument (Local Environmental Plans) Order 2006

under the

Environmental Planning and Assessment Act 1979

## Status information

### Currency of version

Current version for 11 March 2016 to date (generated 15 March 2016 at 11:56).

Legislation on the NSW legislation website is usually updated within 3 working days.

### Provisions in force

All the provisions displayed in this version of the legislation have commenced. For commencement and other details see the Historical notes.

### Note:

To assist with the use and navigation of this instrument, a version containing only the standard provisions is also available. See the Standard Instrument—Principal Local Environmental Plan.



New South Wales

# Standard Instrument (Local Environmental Plans) Order 2006

## Contents

---

	Page
1 Name of Order	3
2 Purpose of Order	3
3 The standard instrument	3
4 Mandatory provisions of the standard instrument	3
5 Additional provisions	4
6 Requirements or guidance relating to form and content of plan	4
7 Land to which standard instruments apply	4
8 Application of amending orders	5
9 Transitional provisions consequent on making of Standard Instrument (Local Environmental Plans) Amendment Order 2011	5
<b>[Name of local government area or other relevant name] Local Environmental Plan [Year]</b>	<b>6</b>
<b>Historical notes</b>	
Table of amending instruments	79
Table of amendments	80
Historical table of amendments	84

## Standard Instrument (Local Environmental Plans) Order 2006 [NSW]

under the

Environmental Planning and Assessment Act 1979

### 1 Name of Order

This Order is the *Standard Instrument (Local Environmental Plans) Order 2006*.

### 2 Purpose of Order

This Order prescribes the form and content of a principal local environmental plan for an area for the purposes of section 33A of the *Environmental Planning and Assessment Act 1979*.

**Note.** Under section 33A of the Act, an environmental planning instrument may be made in the form of a declaration that the applicable mandatory provisions of a standard instrument are adopted and the prescription of matters required to be prescribed for the purposes of the application of the mandatory provisions and the prescription of other permitted matters. Accordingly, a principal local environmental plan that adopts this standard instrument may be made using the following enacting formula:

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows.

In the plan that follows, the mandatory provisions and the other provisions will be set out in different colours (or in any other manner that enables them to be distinguished). When such a draft plan is publicly exhibited, section 66 of the Act requires attention to be drawn to the fact that the standard instrument substantially governs the content and operation of the draft plan.

### 3 The standard instrument

The standard instrument for a principal local environmental plan is the instrument set out at the end of this Order.

### 4 Mandatory provisions of the standard instrument

- (1) The mandatory provisions of the standard instrument prescribed by this Order are as follows:
  - (a) provisions identified in the standard instrument as compulsory provisions (whether in all cases or only those cases prescribed by the standard instrument),
  - (b) provisions identified in the standard instrument as optional provisions if a decision is made to adopt the provisions when the plan is made.
- (2) If an optional provision is to be adopted, it is to be adopted without variation (subject to any relevant direction in the standard instrument). An optional provision that is so adopted is the provision as in force under this standard instrument from time to time.
- (3) If a compulsory provision is not applicable because of the circumstances referred to in the heading to the provision, the number or other identifier of the provision is to be set out in the plan with the words “[Not applicable]” or words to the same effect.

- (4) If an optional provision is not to be adopted, the number or other identifier of the provision is to be set out in the plan with the words “[Not adopted]” or words to the same effect.

**Note.** In the standard instrument, provisions are identified as “compulsory” (including in certain cases only) or “optional” by those words being placed in brackets in connection with the clause or other discrete provision or provisions concerned.

When the Order is amended to make changes to the mandatory provisions of the standard instrument, then any local environmental plan (or draft plan) that adopts those provisions will be automatically amended to reflect the changes (section 33A (4) of the Act). When this happens existing plans on the NSW Legislation website will be updated.

In relation to the numbering of clauses, the standard instrument adopts a Part decimal numbering system. That is, each clause has 2 numbers separated by a decimal point, the first being the number of the Part in which the clause appears and the second being the appropriate consecutive number according to the position of the clause in the Part. For example, the first clause in Part 4 is clause 4.1 followed by clauses 4.2, 4.3 and so on, while Part 5 begins with clause 5.1 followed by clause 5.2 etc.

## 5 Additional provisions

- (1) Additional provisions may be included in the plan, but only if they are not inconsistent with the mandatory provisions of the standard instrument and comply with any relevant directions in that instrument.
- (2) Additional provisions included in the plan are to be numbered in accordance with the usual protocol applicable to amendments made to existing Acts and statutory instruments to include additional provisions.

**Note.** When the standard instrument is amended by a future Order to add a mandatory clause in Parts 1–5, the new clause will ordinarily be added at the end of the relevant Part with sequential numbering. However, if it is necessary to add a new mandatory clause between existing clauses of the standard instrument, it will have a number with double lettering (eg clauses 4.2AA and 4.2BB would appear between clauses 4.2 and 4.3). Only mandatory provisions added by an Order will use double lettering in this manner, and the same convention applies to any additional mandatory subclauses and paragraphs that are inserted in an existing clause. If a whole Part is added by an Order, it will also have double lettering (eg Part 5AA, with clauses starting at 5AA.1) so as to distinguish the Part from any additional non-mandatory (or local) Part that may be included in a local environmental plan that has adopted the standard instrument.

In the case of additional non-mandatory (or local) provisions of a local environmental plan that has adopted the standard instrument, an additional Part will ordinarily be added after Part 5 with a sequential Part number (eg Parts 6, 7 etc) and clauses in that Part will have sequential numbers (eg clauses 6.1, 6.2 or 7.1, 7.2 etc). However, if it is necessary to add a non-mandatory Part between any of the Parts of the standard instrument, it will have a number with single lettering (eg Part 4A, with clauses starting at clause 4A.1). Any additional non-mandatory clause that appears in Parts 1–5 will also be numbered with the letter “A” or “B” etc, whether it is included at the end of the mandatory Part or between clauses in a mandatory Part). Single lettering will also be used for additional non-mandatory subclauses, paragraphs or subparagraphs that are inserted in a mandatory clause in Parts 1–5.

## 6 Requirements or guidance relating to form and content of plan

- (1) The standard instrument prescribed by this Order contains directions relating to the form and content of the local environmental plan, which are to be given effect to according to their tenor but which are not to be reproduced in the plan.
- (2) Bracketed words in italics are to be replaced by the appropriate local provision indicated or required by the bracketed words.

## 7 Land to which standard instruments apply

- (1) A local environmental plan that adopts the standard instrument should apply to the whole of the land in the local government area concerned.

- (2) However, the Minister may make a local environmental plan that adopts the standard instrument and that applies only to part of the land in the local government area concerned if the Minister considers it appropriate to do so.

#### **8 Application of amending orders**

- (1) The amendments made by an amending order do not apply to or in respect of any development application that was made, but not determined, before the commencement of the amending order.
- (2) In issuing a certificate under section 65 of the Act that a draft local environmental plan submitted to the Secretary under section 64 of the Act has been prepared in accordance with the standard instrument prescribed by this Order, the Secretary may (but is not required to) take into account any amendment made to the standard instrument by an amending order after the date on which the draft local environmental plan was submitted.
- (3) In this clause:  
***amending order*** means an order under section 33A of the Act that amends the standard instrument prescribed by this Order.

#### **9 Transitional provisions consequent on making of Standard Instrument (Local Environmental Plans) Amendment Order 2011**

- (1) The amendments made by the *Standard Instrument (Local Environmental Plans) Amendment Order 2011* (the ***amending Order***) to the standard instrument prescribed by this Order do not have effect in relation to any local environmental plan that was in force immediately before the commencement of the amending Order until 4 months after that commencement.
- (2) In any instrument or in any map adopted by an instrument, a reference to Zone RU4 Rural Small Holdings is taken to include a reference to Zone RU4 Primary Production Small Lots.
- (3) For the purposes of subclause (2), ***instrument*** means a local environmental plan made under section 33A of the Act or any other environmental planning instrument that adopts or refers to the land use zones under the standard instrument prescribed by this Order.
- (4) This clause does not limit the operation of clause 8.

## **[Name of local government area or other relevant name] Local Environmental Plan [Year]**

### **Part 1 Preliminary**

**Direction.** In this standard instrument, provisions are identified as “compulsory” (including in certain cases only) or “optional” by those words being placed in brackets in connection with the clause or other discrete provision or provisions concerned. If an optional provision is adopted, it is to be adopted in the form (and in accordance with the directions) set out in this instrument. If an optional provision is not adopted, the number or other identifier of the provision is to be set out in the Plan with the words “Not adopted” or words to the same effect. If a compulsory provision is not applicable (because of the circumstances referred to in the heading to the provision), the number or other identifier of the provision is to be set out in the Plan with the words “Not applicable” or words to the same effect.

Any additional provisions (not inconsistent with the mandatory provisions) included in the Plan are generally to be included at the end of the Part, clause, subclause etc and are to be numbered in accordance with the usual protocol applicable to amendments made to existing Acts and statutory instruments.

#### **1.1 Name of Plan [compulsory]**

This Plan is [Name of local government area or other relevant name] Local Environmental Plan [Year].

#### **1.1AA Commencement [compulsory]**

This Plan commences on the day on which it is published on the NSW legislation website.

**Direction.** If required another date may be specified for commencement.

#### **1.2 Aims of Plan [compulsory]**

- (1) This Plan aims to make local environmental planning provisions for land in [Name of local government area or other relevant name] in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) [set out particular aims of the Plan]

#### **1.3 Land to which Plan applies [compulsory]**

This Plan applies to the land identified on the Land Application Map.

**Direction.** The Land Application Map may be a separate map or be constituted by the outer boundary of the Land Zoning Map (by an annotation on that Map).

The Plan should wherever practicable apply to the whole of the local government area.

#### **1.4 Definitions [compulsory]**

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

#### **1.5 Notes [compulsory]**

Notes in this Plan are provided for guidance and do not form part of this Plan.

#### **1.6 Consent authority [compulsory]**

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

**Direction.** If required another person or body may be specified as the consent authority for all or any particular kind of development.

#### **1.7 Maps [compulsory]**

- (1) A reference in this Plan to a named map adopted by this Plan 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.
- (1AA) A reference to the Minister in subclause (1) is taken to be a reference to the Greater Sydney Commission in the case of any map that applies to a local government area in the Greater Sydney Region (within the meaning of the *Greater Sydney Commission Act 2015*) and that is adopted by a local environmental plan on or after 27 January 2016.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
  - (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 Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.
- Direction.** In order to effect a future rezoning of land subject to the Plan (or other change to a provision having effect by virtue of an adopted map), the amending local environmental plan (or other planning instrument) would not directly amend the Plan but merely declare that the relevant adopted map is amended by a named amending map.
- Note.** The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the website of the Department of Planning and Environment.

#### 1.8 Repeal of planning instruments applying to land [compulsory]

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.

**Note. [compulsory if any local environmental plan is wholly repealed]** The following local environmental plans are repealed under this provision:
  - (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.
- Direction.** Provision may also be included to repeal or amend specific instruments to reflect the operation of this clause.

#### 1.9 Application of SEPPs [compulsory]

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:

*State Environmental Planning Policy No 1—Development Standards*

**Direction.** Additional instruments (or provisions of instruments) may be added if the relevant instrument or provision is covered by this Plan.

## Part 2 Permitted or prohibited development

### 2.1 Land use zones [compulsory]

The land use zones under this Plan are as follows:

**Rural Zones**

RU1 Primary Production  
RU2 Rural Landscape  
RU3 Forestry  
RU4 Primary Production Small Lots  
RU5 Village  
RU6 Transition

**Residential Zones**

R1 General Residential  
R2 Low Density Residential  
R3 Medium Density Residential  
R4 High Density Residential  
R5 Large Lot Residential

**Business Zones**

B1 Neighbourhood Centre  
B2 Local Centre  
B3 Commercial Core  
B4 Mixed Use  
B5 Business Development  
B6 Enterprise Corridor  
B7 Business Park  
B8 Metropolitan Centre

**Industrial Zones**

IN1 General Industrial  
IN2 Light Industrial  
IN3 Heavy Industrial  
IN4 Working Waterfront

**Special Purpose Zones**

SP1 Special Activities  
SP2 Infrastructure  
SP3 Tourist

**Recreation Zones**

RE1 Public Recreation  
RE2 Private Recreation

**Environment Protection Zones**

E1 National Parks and Nature Reserves  
E2 Environmental Conservation  
E3 Environmental Management  
E4 Environmental Living

**Waterway Zones**

W1 Natural Waterways  
W2 Recreational Waterways



### W3 Working Waterways

**Direction 1.** Additional zones or subzones are not to be prescribed.

**Direction 2.** If the land to which the Plan applies does not include any of the above zones, the reference to the zone in this clause and the provisions relating to it in the Land Use Table in clause 2.3 may, but need not, be included.

## 2.2 Zoning of land to which Plan applies [compulsory]

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

## 2.3 Zone objectives and Land Use Table [compulsory]

- (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 Plan) 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 Plan.

### Notes.

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development. *[see—relevant clauses may be listed here].*

## 2.4 Unzoned land [compulsory]

- (1) Development may be carried out on unzoned land only with development consent.
- (2) In deciding whether to grant development consent, the consent authority:
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

## 2.5 Additional permitted uses for particular land [compulsory]

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
  - (a) with development consent, or

(b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.

- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**Direction 1.** While this clause and Schedule 1 are compulsory, it is not compulsory to include any items in the Schedule when the Plan is first made.

**Direction 2.** A type of development may be included in Schedule 1 only if it is a type of development listed in Direction 5 at the beginning of the Land Use Table.

## 2.6 Subdivision—consent requirements [compulsory]

- (1) Land to which this Plan applies may be subdivided, but only with development consent.

### Notes.

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

**Note.** The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

## 2.7 Demolition requires development consent [compulsory]

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

**Note.** If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

## 2.8 Temporary use of land [optional]

- (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 Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 [*or another number*] 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 Plan and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

- (c) 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
  - (d) 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).

**Direction.** Other specific exceptions to subclause (2) may be added.

## Land Use Table

**Note.** A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

*State Environmental Planning Policy (Affordable Rental Housing) 2009* (including provision for secondary dwellings)

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

*State Environmental Planning Policy (Infrastructure) 2007*—relating to infrastructure facilities such as those that comprise, or are for, air transport, correction, education, electricity generating works and solar energy systems, health services, ports, railways, roads, waste management and water supply systems

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

*State Environmental Planning Policy (Rural Lands) 2008*

*State Environmental Planning Policy No 33—Hazardous and Offensive Development*

*State Environmental Planning Policy No 50—Canal Estate Development*

*State Environmental Planning Policy No 62—Sustainable Aquaculture*

*State Environmental Planning Policy No 64—Advertising and Signage*

**Direction 1.** Additional objectives may be included in a zone at the end of the listed objectives to reflect particular local objectives of development, but only if they are consistent with the core objectives for development in the zone as set out in the Land Use Table.

**Direction 2.** Specified uses may be added to (but not removed from) the list of development that is permitted or prohibited in a zone. Additional uses may be added to an item of a zone even if some uses are already specified in that item. Additional permitted uses for particular land (but not all land in a particular zone) may be set out in Schedule 1.

**Direction 3.** Items 2, 3 and 4 of each zone require a relevant entry to be inserted. The following may be entered:

- (a) particular uses,
- (b) the word “Nil”,
- (c) the words “Any development not specified in item [specify item number or numbers]”,

so long as all residual (ie non-specified) uses are covered.

**Direction 4.** Respite day care centres must be permitted wherever a child care centre is permitted in the Land Use Table.

**Direction 5.** Only the following types of development may be included in the Land Use Table:

Advertising structures; Agricultural produce industries; Agriculture; Air transport facilities; Airports; Airstrips; Amusement centres; Animal boarding or training establishments; Aquaculture; Attached dwellings

Backpackers' accommodation; Bed and breakfast accommodation; Bee keeping; Biosolids treatment facilities; Boarding houses; Boat building and repair facilities; Boat launching ramps; Boat sheds; Building identification signs; Bulky goods premises; Business identification signs; Business premises

Camping grounds; Car parks; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Crematoria

Dairies (pasture-based); Dairies (restricted); Depots; Dual occupancies; Dual occupancies (attached); Dual occupancies (detached); Dwelling houses

Eco-tourist facilities; Educational establishments; Electricity generating works; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extensive agriculture; Extractive industries

Farm buildings; Farm stay accommodation; Feedlots; Flood mitigation works; Food and drink premises; Forestry; Freight transport facilities; Function centres; Funeral homes

Garden centres; General industries; Group homes; Group homes (permanent) or permanent group homes; Group homes (transitional) or transitional group homes

Hardware and building supplies; Hazardous industries; Hazardous storage establishments; Health consulting rooms; Health services facilities; Heavy industrial storage establishments; Heavy industries; Helipads; Heliports; High technology industries; Highway service centres; Home-based child care; Home businesses; Home industries; Home occupations; Home occupations (sex services); Horticulture; Hospitals; Hostels; Hotel or motel accommodation

Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture

Jetties

Kiosks

Landscaping material supplies; Light industries; Liquid fuel depots; Livestock processing industries

Marinas; Markets; Medical centres; Mooring pens; Moorings; Mortuaries; Multi dwelling housing

Neighbourhood shops

Offensive industries; Offensive storage establishments; Office premises; Open cut mining

Passenger transport facilities; Places of public worship; Plant nurseries; Port facilities; Public administration buildings; Pubs

Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Residential care facilities; Residential flat buildings; Resource recovery facilities; Respite day care centres; Restaurants or cafes; Restricted premises; Retail premises; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings

Sawmill or log processing works; Schools; Secondary dwellings; Self-storage units; Semi-detached dwellings; Seniors housing; Service stations; Serviced apartments; Sewage reticulation systems; Sewage treatment plants; Sewerage systems; Sex services premises; Shops; Shop top housing; Signage; Small bars; Stock and sale yards; Storage premises

Take away food and drink premises; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Turf farming

Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Viticulture

Warehouse or distribution centres; Waste disposal facilities; Waste or resource management facilities; Waste or resource transfer stations; Water recreation structures; Water recycling facilities; Water reticulation systems; Water storage facilities; Water supply systems; Water treatment facilities; Wharf or boating facilities; Wholesale supplies

## Zone RU1 Primary Production

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Environmental protection works

Farm buildings

Intensive livestock agriculture

Intensive plant agriculture

Roads

Roadside stalls

### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

**2 Permitted without consent**

Extensive agriculture; Home occupations

**3 Permitted with consent**

Dwelling houses; Extractive industries; Open cut mining

**4 Prohibited**

**Zone RU2 Rural Landscape**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Environmental protection works

Farm buildings

Roads

**1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.

**2 Permitted without consent**

Extensive agriculture; Home occupations

**3 Permitted with consent**

Dwelling houses

**4 Prohibited**

**Zone RU3 Forestry**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To enable development for forestry purposes.
- To enable other development that is compatible with forestry land uses.

**2 Permitted without consent**

Uses authorised under the *Forestry Act 2012*

**3 Permitted with consent**

**4 Prohibited**

**Zone RU4 Primary Production Small Lots**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Extensive agriculture

Farm buildings

Intensive plant agriculture

Roads

Roadside stalls

**1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Dwelling houses; Plant nurseries

**4 Prohibited**

**Zone RU5 Village**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Roads

**1 Objectives of zone**

- To provide for a range of land uses, services and facilities that are associated with a rural village.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Child care centres; Community facilities; Dwelling houses; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Schools

**4 Prohibited**

## Zone RU6 Transition

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

### 1 Objectives of zone

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

### 2 Permitted without consent

### 3 Permitted with consent

Dwelling houses

### 4 Prohibited

## Zone R1 General Residential

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

### 1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

### 2 Permitted without consent

Home occupations

### 3 Permitted with consent

Attached dwellings; Boarding houses; Child care centres; Community facilities; Dwelling houses; Group homes; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Semi-detached dwellings; Seniors housing; Shop top housing

### 4 Prohibited

## Zone R2 Low Density Residential

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

### 1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Boarding houses; Dwelling houses; Group homes

**4 Prohibited**

**Zone R3 Medium Density Residential**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**2 Permitted without consent**

**3 Permitted with consent**

Attached dwellings; Boarding houses; Child care centres; Community facilities; Group homes; Multi dwelling housing; Neighbourhood shops; Places of public worship; Respite day care centres; Seniors housing

**4 Prohibited**

**Zone R4 High Density Residential**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**2 Permitted without consent**



**3 Permitted with consent**

Boarding houses; Child care centres; Community facilities; Neighbourhood shops;  
Places of public worship; Residential flat buildings; Respite day care centres; Shop  
top housing

**4 Prohibited**

**Zone R5 Large Lot Residential**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Dwelling houses

**4 Prohibited**

**Zone B1 Neighbourhood Centre**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

**2 Permitted without consent**

**3 Permitted with consent**

Boarding houses; Business premises; Child care centres; Community facilities;  
Medical centres; Neighbourhood shops; Respite day care centres; Shop top housing

**4 Prohibited**

## **Zone B2 Local Centre**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Roads

### **1 Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

### **2 Permitted without consent**

### **3 Permitted with consent**

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Service stations; Shop top housing; Tourist and visitor accommodation

### **4 Prohibited**

## **Zone B3 Commercial Core**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Roads

### **1 Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

### **2 Permitted without consent**

### **3 Permitted with consent**

Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises

### **4 Prohibited**

## **Zone B4 Mixed Use**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

#### Roads

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

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

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

##### **3 Permitted with consent**

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Seniors housing; Shop top housing

##### **4 Prohibited**

#### **Zone B5 Business Development**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

#### Roads

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

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.

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

##### **3 Permitted with consent**

Bulky goods premises; Child care centres; Garden centres; Hardware and building supplies; Landscaping material supplies; Passenger transport facilities; Respite day care centres; Warehouse or distribution centres

##### **4 Prohibited**

#### **Zone B6 Enterprise Corridor**

**Direction 1.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

#### Roads

**Direction 2.** The following objective must be included if any type of residential accommodation is permitted in this zone:

- To provide for residential uses, but only as part of a mixed use development.

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

- To promote businesses along main roads and to encourage a mix of compatible uses.

- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.

## **2 Permitted without consent**

## **3 Permitted with consent**

Business premises; Community facilities; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Passenger transport facilities; Plant nurseries; Warehouse or distribution centres

## **4 Prohibited**

### **Zone B7 Business Park**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

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

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

## **2 Permitted without consent**

## **3 Permitted with consent**

Child care centres; Garden centres; Hardware and building supplies; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Respite day care centres; Warehouse or distribution centres

## **4 Prohibited**

### **Zone B8 Metropolitan Centre**

**Direction 1.** This zone may only be used in the following local government areas:

City of Sydney

North Sydney

**Direction 2.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

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

- To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.

- To provide opportunities for an intensity of land uses commensurate with Sydney's global status.
- To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.

## **2 Permitted without consent**

## **3 Permitted with consent**

Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Tourist and visitor accommodation

## **4 Prohibited**

### **Zone IN1 General Industrial**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

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

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.

## **2 Permitted without consent**

## **3 Permitted with consent**

Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial training facilities; Light industries; Neighbourhood shops; Places of public worship; Warehouse or distribution centres

## **4 Prohibited**

### **Zone IN2 Light Industrial**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

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

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

**2 Permitted without consent**

**3 Permitted with consent**

Depots; Garden centres; Hardware and building supplies; Industrial training facilities; Light industries; Neighbourhood shops; Places of public worship; Warehouse or distribution centres

**4 Prohibited**

**Zone IN3 Heavy Industrial**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To provide suitable areas for those industries that need to be separated from other land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of heavy industry on other land uses.
- To support and protect industrial land for industrial uses.

**2 Permitted without consent**

**3 Permitted with consent**

Depots; Freight transport facilities; General industries; Hazardous storage establishments; Heavy industries; Offensive storage establishments; Warehouse or distribution centres

**4 Prohibited**

**Zone IN4 Working Waterfront**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**1 Objectives of zone**

- To retain and encourage waterfront industrial and maritime activities.
- To identify sites for maritime purposes and for activities that require direct waterfront access.
- To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.
- To encourage employment opportunities.

- To minimise any adverse effect of development on land uses in other zones.

**2 Permitted without consent**

**3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Jetties; Light industries

**4 Prohibited**

**Zone SP1 Special Activities**

**1 Objectives of zone**

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

**2 Permitted without consent**

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

**4 Prohibited**

**Zone SP2 Infrastructure**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Roads

**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.

**2 Permitted without consent**

**3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

**4 Prohibited**

### **Zone SP3 Tourist**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Roads

**1 Objectives of zone**

- To provide for a variety of tourist-oriented development and related uses.

**2 Permitted without consent**

**3 Permitted with consent**

Food and drink premises; Tourist and visitor accommodation

**4 Prohibited**

### **Zone RE1 Public Recreation**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Environmental facilities

Environmental protection works

Roads

**1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

**2 Permitted without consent**

**3 Permitted with consent**

Kiosks; Recreation areas

**4 Prohibited**

Any development not specified in item 2 or 3

### **Zone RE2 Private Recreation**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Environmental facilities

Environmental protection works

Roads

**1 Objectives of zone**

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.



**2 Permitted without consent**

**3 Permitted with consent**

Community facilities; Kiosks; Recreation areas; Recreation facilities (indoor);  
Recreation facilities (outdoor)

**4 Prohibited**

**Zone E1 National Parks and Nature Reserves**

**1 Objectives of zone**

- 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.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- 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.

**2 Permitted without consent**

Uses authorised under the *National Parks and Wildlife Act 1974*

**3 Permitted with consent**

Nil

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone E2 Environmental Conservation**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Environmental protection works

**1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

**2 Permitted without consent**

**3 Permitted with consent**

**4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## **Zone E3 Environmental Management**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Environmental protection works

Roads

Home industries, kiosks, cellar door premises, neighbourhood shops and roadside stalls may (but need not) be included as permitted with consent.

### **1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Dwelling houses

### **4 Prohibited**

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## **Zone E4 Environmental Living**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Environmental protection works

Roads

Home industries may (but need not) be included as permitted with consent.

### **1 Objectives of zone**

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Dwelling houses

### **4 Prohibited**

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## **Zone W1 Natural Waterways**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone:

Environmental facilities

Environmental protection works

**1 Objectives of zone**

- To protect the ecological and scenic values of natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.

**2 Permitted without consent**

**3 Permitted with consent**

**4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

**Zone W2 Recreational Waterways**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Boat sheds

Environmental facilities

Environmental protection works

Water recreation structures

**1 Objectives of zone**

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

**2 Permitted without consent**

**3 Permitted with consent**

Kiosks; Marinas

**4 Prohibited**

Industries; Multi dwelling housing; Residential flat buildings; Seniors housing; Warehouse or distribution centres; Any other development not specified in item 2 or 3

**Zone W3 Working Waterways**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone:

Boat sheds

Environmental facilities

Environmental protection works

Water recreation structures

**1 Objectives of zone**

- To enable the efficient movement and operation of commercial shipping, water-based transport and maritime industries.
- To promote the equitable use of waterways, including appropriate recreational uses.
- To minimise impacts on ecological values arising from the active use of waterways.
- To provide for sustainable fishing industries.

**2 Permitted without consent**

**3 Permitted with consent**

Boat building and repair facilities; Port facilities; Wharf or boating facilities

**4 Prohibited**

Any development not specified in item 2 or 3

## **Part 3 Exempt and complying development**

### **3.1 Exempt development [compulsory]**

**Note.** Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
  - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development, the development:
- (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia* or, if there are no such relevant provisions, must be structurally adequate, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be designated development, and
  - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.
  - (e) (Repealed)
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:

- (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (5) To be exempt development, the development must:
  - (a) be installed in accordance with the manufacturer's specifications, if applicable, and
  - (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.
- (6) A heading to an item in Schedule 2 is part of that Schedule.

### 3.2 Complying development [compulsory]

- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
  - (a) the development standards specified in relation to that development, and
  - (b) the requirements of this Part,is complying development.

**Note.** See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
- (3) To be complying development, the development must:
  - (a) be permissible, with development consent, in the zone in which it is carried out, and
  - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out or referred to in Part 2 of that Schedule.
- (5) A heading to an item in Schedule 3 is part of that Schedule.

### 3.3 Environmentally sensitive areas excluded [compulsory]

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (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 under the *National Parks and Wildlife Act 1974* or land acquired under Part 11 of that Act,
- (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*.

**Direction.** Additional areas may be added to this list.

## Part 4 Principal development standards

### 4.1 Minimum subdivision lot size [optional]

- (1) The objectives of this clause are as follows:
  - (a) [set out objectives of the clause]
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

**Direction.** An exception to the minimum size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for attached dwellings.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

### 4.1AA Minimum subdivision lot size for community title schemes [optional if clause 4.1 is adopted]

- (1) The objectives of this clause are as follows:
  - (a) [set out objectives of the clause]
- (2) This clause applies to a subdivision (being a subdivision that requires development consent) under the *Community Land Development Act 1989* of land in any of the following zones:
  - (a) [list relevant zones]
- (3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the *Community Land Development Act 1989*) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

**Direction.** An exception to the minimum size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for attached dwellings.

#### **4.2 Rural subdivision [compulsory if clause 4.1 adopted and land to which Plan applies includes land zoned RU1, RU2, RU4 or RU6]**

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Primary Production Small Lots,
  - (d) Zone RU6 Transition.
- (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.  
**Note.** A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

#### **4.3 Height of buildings [optional]**

- (1) The objectives of this clause are as follows:
  - (a) *[set out objectives of the clause]*
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.  
**Direction.** Different heights may be shown on the map for different zones or for different land in the same zone. This Plan may also provide for specified height restrictions to be varied or modified in certain circumstances, for example, to prevent overshadowing of public open space, for air safety reasons or for the purposes of promoting design excellence.

#### **4.4 Floor space ratio [optional]**

- (1) The objectives of this clause are as follows:
  - (a) *[set out objectives of the clause]*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.  
**Direction.** Different floor space ratios may be shown on the FSR map for different zones, for different land in the same zone or for different land uses within a building. This Plan may provide that, despite subclause (2), the maximum floor space ratio for a building is to be determined partly by the FSR map and partly by other means, or wholly by other means.

#### **4.5 Calculation of floor space ratio and site area [optional]**

- (1) **Objectives**  
The objectives of this clause are as follows:
  - (a) to define *floor space ratio*,
  - (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
    - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and

- (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
- (iii) require community land and public places to be dealt with separately.

(2) **Definition of “floor space ratio”**

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) **Site area**

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area**

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions**

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority



is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

**4.6 Exceptions to development standards [compulsory]**

- (1) The objectives of this clause are as follows:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development 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) Development 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
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development 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 Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary 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 Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) 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).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
  - (c) clause 5.4.

**Direction.** Additional exclusions may be added.

## Part 5 Miscellaneous provisions

### 5.1 Relevant acquisition authority [compulsory]

- (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, 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
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act

Type of land shown on Map	Authority of the State
Zone SP2 Infrastructure and marked "Classified road"	Roads and Maritime Services
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

**Direction.** Land is required to be shown on the Land Reservation Acquisition Map if it is expressly set apart by the Plan exclusively for a public purpose referred to in section 26 (1) (c) of the Act. However, any such land that is held by an authority of the State, or by a public company or a subsidiary of a public company (within the meaning of the *Corporations Act 2001* of the Commonwealth) is not required to be shown on that Map. An authority of the State is to be listed for all land shown on the Land Reservation Acquisition Map, but the land is not to be so reserved and the authority listed unless the authority consents to its being listed.

- (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.

## 5.2 Classification and reclassification of public land [compulsory]

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as "operational land" or "community land" in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

**Note.** Under the *Local Government Act 1993*, "public land" is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
  - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
  - (b) any reservations that except land out of the Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note.** In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

### 5.3 Development near zone boundaries [optional]

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is *[insert distance for any 2 zones or different distances for different zones]*.
- (3) This clause does not apply to:
  - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.

**Direction.** Additional zones may be included by adding them in a separate paragraph numbered (aa).
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
  - (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) This clause does not prescribe a development standard that may be varied under this Plan.

### 5.4 Controls relating to miscellaneous permissible uses [compulsory]

- (1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than *[insert number not less than 3]* bedrooms.

**Note.** Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.
- (2) **Home businesses**

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than *[insert number not less than 30]* square metres of floor area.
- (3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than *[insert number not less than 30]* square metres of floor area.
- (4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

- (a) *[insert number not more than 67]*% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or
  - (b) *[insert number not more than 400]* square metres,whichever is the lesser.
- (5) **Farm stay accommodation**  
If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than *[insert number not less than 3]* bedrooms.
- (6) **Kiosks**  
If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed *[insert number not less than 10]* square metres.
- (7) **Neighbourhood shops**  
If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed *[insert number not less than 80]* square metres.
- (8) **Roadside stalls**  
If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed *[insert number not less than 8]* square metres.
- (9) **Secondary dwellings**  
If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:
  - (a) 60 square metres,
  - (b) *[insert number]*% of the total floor area of the principal dwelling.

**5.5 Development within the coastal zone [compulsory if land to which Plan applies includes land in 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,
  - (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 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 rock platforms, 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) Development consent must not be granted to development on land 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:
    - (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 cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Development consent must not be granted to development on land 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

- (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, and
- (d) the proposed development will not:
  - (i) be significantly affected by coastal hazards, or
  - (ii) have a significant impact on coastal hazards, or
  - (iii) increase the risk of coastal hazards in relation to any other land.

#### **5.6 Architectural roof features [optional]**

- (1) The objectives of this clause are as follows:
  - (a) *[set out objectives of the clause]*
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
  - (a) the architectural roof feature:
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

#### **5.7 Development below mean high water mark [compulsory if land to which Plan applies contains tidal waters]**

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

#### **5.8 Conversion of fire alarms [compulsory]**

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent:
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

- (3) Development to which subclause (2) applies is complying development if it consists only of:
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:  
**private service provider** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

**5.9 Preservation of trees or vegetation [compulsory, except subclause (9) optional]**

- (1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.  
**Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
  - (a) development consent, or
  - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
  - (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
  - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,unless the Council is satisfied that the proposed activity:
  - (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
  - (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Note.** As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.



- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation:
    - (i) that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or
    - (ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

**Note.** Permissibility may be a matter that is determined by or under any of these Acts.

- (9) Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

**Direction.** This subclause is an optional provision.

#### **5.9AA Trees or vegetation not prescribed by development control plan [compulsory]**

- (1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.
- (2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

#### **5.10 Heritage conservation [compulsory]**

**Note.** Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

**Direction.** Heritage items as identified in Schedule 5 must be shown on the Heritage Map.

The location and nature of Aboriginal objects and Aboriginal places of heritage significance may be described in Schedule 5 and shown on the Heritage Map (see the direction to Schedule 5).

##### **(1) Objectives**

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of [Name of local government area or other relevant name],
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

##### **(2) Requirement for consent**

Development consent is required for any of 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 5 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 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. This subclause applies regardless of whether a heritage management document is

prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment**

The consent authority may, before granting consent to any 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.

(6) **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.

(7) **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 any response received from the Heritage Council within 28 days after the notice is sent.

(8) **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 any 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 in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **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 any response received from the Heritage Council within 28 days after the notice is sent.

(10) **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 Plan, 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 any significant adverse effect on the amenity of the surrounding area.

#### **5.11 Bush fire hazard reduction [compulsory]**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.

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

#### **5.12 Infrastructure development and use of existing buildings of the Crown [compulsory]**

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

#### **5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]**

- (1) The objectives of this clause are as follows:
  - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
  - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:
  - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
  - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
  - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
  - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and
  - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
  - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and

- (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and
- (h) any infrastructure services to the site will be provided without significant modification to the environment, and
- (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
- (j) the development will not adversely affect the agricultural productivity of adjoining land, and
- (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
  - (i) measures to remove any threat of serious or irreversible environmental damage,
  - (ii) the maintenance (or regeneration where necessary) of habitats,
  - (iii) efficient and minimal energy and water use and waste output,
  - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
  - (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

## **Schedule 1 Additional permitted uses**

(Clause 2.5)

## **Schedule 2 Exempt development**

(Clause 3.1)

**Note 1.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

**Note 2.** Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

## **Schedule 3 Complying development**

(Clause 3.2)

**Note.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application. This Schedule contains additional complying development not specified in that Policy.

## **Part 1 Types of development**

## **Part 2 Complying development certificate conditions**

**Note.** Complying development must comply with the requirements of the Act, the regulations under the Act and this Plan.

### General conditions

Any development specified in Part 1 is subject to the same conditions set out in Schedule 6 to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Direction.** Other conditions may be included in this Part.

## Schedule 4 Classification and reclassification of public land

(Clause 5.2)

### Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

### Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

### Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description

## Schedule 5 Environmental heritage

(Clause 5.10)

**Direction.** This Schedule should generally be divided into 3 parts (one for heritage items, one for heritage conservation areas and one for archaeological sites). If agreement is reached with the Aboriginal community to list Aboriginal objects or Aboriginal places of heritage significance, the Schedule should also include separate parts listing any such object or place. In all cases, the relevant matter should be listed in alphabetical order in each respective Part according to suburb or locality name (and by street name within each such suburb or locality).

The description of a heritage item should be included in a column headed "Item" and should include a brief description of those things that are part of the heritage significance of the item—for example, "House, front garden and front fence", or "Lindsey (including homestead, outbuildings, stables, Bunya Pine tree and driveway)" or "Dunmore Park (including bandstand, fountain and avenue of fig trees)". If any interior features

are part of the heritage significance of a heritage item, these should also be described—for example “Lindsey (including original bathroom, dining room fireplace with mantelpiece and original detailing throughout)” or “Lindsey (including all interior features)”. Any thing that is part of the heritage significance of a heritage item should also be included in the inventory of heritage items.

Heritage items cannot be identified in the Schedule as having “State significance” unless they are listed on the State Heritage Register. However, a heritage item may be listed in the Schedule as a “nominated item of State significance” (or as “State nominated”) if the item has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.

## Dictionary

(Clause 1.4)

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**Aboriginal place of heritage significance** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**Note.** The term may include (but is not limited to) places that are declared under section 84 of the *National Parks and Wildlife Act 1974* to be Aboriginal places for the purposes of that Act.

**acid sulfate soils** means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

**Acid Sulfate Soils Manual** means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

**advertisement** has the same meaning as in the Act.

**Note.** The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

**advertising structure** has the same meaning as in the Act.

**Note.** The term is defined as a structure used or to be used principally for the display of an advertisement. Advertising structures are a type of **signage**—see the definition of that term in this Dictionary.

**affordable housing** has the same meaning as in the Act.

**Note.** The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

**agricultural produce industry** means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

**Note.** Agricultural produce industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**agriculture** means any of the following:

- (a) aquaculture,
- (b) extensive agriculture,
- (c) intensive livestock agriculture,
- (d) intensive plant agriculture.

**Note.** Part 6 of the *Plantations and Reforestation Act 1999* provides that exempt farm forestry within the meaning of that Act is not subject to the *Environmental Planning and Assessment Act 1979*.

**air transport facility** means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.



**airport** means a place that is used for the landing, taking off, parking, maintenance or repair of aeroplanes, and includes associated buildings, installations, facilities and movement areas and any heliport that is part of the airport.

**Note.** Airports are a type of **air transport facility**—see the definition of that term in this Dictionary.

**airstrip** means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**animal boarding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**aquaculture** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** Aquaculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**archaeological site** means a place that contains one or more relics.

**attached dwelling** means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

**Note.** Attached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

**backpackers' accommodation** means a building or place that:

- (a) provides temporary or short-term accommodation on a commercial basis, and
- (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (c) provides accommodation on a bed or dormitory-style basis (rather than by room).

**Note.** Backpackers' accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

**bed and breakfast accommodation** means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

**Note.** See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation. Bed and breakfast accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**bee keeping** means a building or place used for the keeping and breeding of bees for commercial purposes.

**Note.** Bee keeping is a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**biodiversity** means biological diversity.

**biological diversity** has the same meaning as in the *Threatened Species Conservation Act 1995*.

**Note.** The term is defined as follows:

**biological diversity** means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**biosolids treatment facility** means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

**Note.** Biosolids treatment facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

**boarding house** means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

**Note.** Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**boat building and repair facility** means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

**boat launching ramp** means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

**boat shed** means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

**brothel** has the same meaning as in the Act.

**Note.** This definition is relevant to the definitions of **home occupation (sex services)** and **sex services premises** in this Dictionary.

**building** has the same meaning as in the Act.

**Note.** The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

**building height** (or **height of building**) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**building identification sign** means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.

**Note.** Building identification signs are a type of **signage**—see the definition of that term in this Dictionary.

**building line** or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or

(c) the supporting posts of a carport or verandah roof,  
whichever distance is the shortest.

**bulky goods premises** means a building or place the principal purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, and
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

**Note.** Bulky goods premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**bush fire hazard reduction work** has the same meaning as in the *Rural Fires Act 1997*.

**Note.** The term is defined as follows:

**bush fire hazard reduction work** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

**bush fire prone land** has the same meaning as in the Act.

**Note.** The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

**bush fire risk management plan** means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

**business identification sign** means a sign:

- (a) that indicates:
  - (i) the name of the person or business, and
  - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

**Note.** Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

**business premises** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**Note.** Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

**canal estate development** means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or

for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
  - (i) dwellings that are permitted on rural land, and
  - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**catchment action plan** has the same meaning as in the *Catchment Management Authorities Act 2003*.

**Note.** The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

**cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**Note.** Cellar door premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**cemetery** means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.

**charter and tourism boating facility** means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

**child care centre** means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or

- (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

**classified road** has the same meaning as in the *Roads Act 1993*.

**Note.** The term is defined as follows:

**classified road** means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(See *Roads Act 1993* for meanings of these terms.)

**clearing native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**clearing native vegetation** means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

**coastal foreshore** means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

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

**coastal lake** means a body of water specified in Schedule 1 to *State Environmental Planning Policy No 71—Coastal Protection*.

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

**coastal waters of the State**—see section 58 of the *Interpretation Act 1987*.

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

**Note.** The term is defined as follows:

**coastal zone** means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

**commercial premises** means any of the following:

- (a) business premises,
- (b) office premises,

(c) retail premises.

**community facility** means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

**community land** has the same meaning as in the *Local Government Act 1993*.

**correctional centre** means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

**Council** means the [name of the Council for the relevant local government area].

**crematorium** means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

**Crown reserve** means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*,

but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

**curtilage**, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

**dairy (pasture-based)** means a dairy that is conducted on a commercial basis where the only restriction facilities present are milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

**Note.** Dairies (pasture-based) are a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**dairy (restricted)** means a dairy that is conducted on a commercial basis where restriction facilities (in addition to milking sheds and holding yards) are present and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief). It may comprise the whole or part of a restriction facility.

**Note.** Dairies (restricted) are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

**demolish**, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

**drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

**Note.** Dual occupancies are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

**Note.** Dual occupancies (attached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

**dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

**Note.** Dual occupancies (detached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**dwelling house** means a building containing only one dwelling.

**Note.** Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**earthworks** means excavation or filling.

**ecologically sustainable development** has the same meaning as in the Act.

**eco-tourist facility** means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

**Note.** See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**educational establishment** means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

**electricity generating works** means a building or place used for the purpose of making or generating electricity.

**emergency services facility** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

**emergency services organisation** means any of the following:

- (a) Ambulance Service of New South Wales,
- (b) Fire and Rescue NSW,
- (c) NSW Rural Fire Service,
- (d) NSW Police Force,
- (e) State Emergency Service,
- (f) New South Wales Volunteer Rescue Association Incorporated,
- (g) New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

**environmental facility** means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

**environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

**estuary** has the same meaning as in the *Water Management Act 2000*.

**Note.** The term is defined as follows:

**estuary** means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary, but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

**excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

**exhibition home** means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

**exhibition village** means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

**extensive agriculture** means any of the following:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock for commercial purposes,
- (c) bee keeping,
- (d) a dairy (pasture-based).

**Note.** Extensive agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**Note.** Extractive industries are not a type of **industry**—see the definition of that term in this Dictionary.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

**farm building** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

**farm stay accommodation** means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

Farm stay accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.



**feedlot** means a confined or restricted area that is operated on a commercial basis to rear and fatten cattle, sheep or other animals, fed (wholly or substantially) on prepared and manufactured feed, for the purpose of meat production or fibre products, but does not include a poultry farm, dairy or piggery.

**Note.** Feedlots are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

**fill** means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

**filming** means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

**fish** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**Definition of “fish”**

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
  - (a) oysters and other aquatic molluscs, and
  - (b) crustaceans, and
  - (c) echinoderms, and
  - (d) beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

**flood mitigation work** means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

**floor space ratio**—see clause 4.5.

**Floor Space Ratio Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Floor Space Ratio Map.

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Note.** Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**forestry** has the same meaning as **forestry operations** has for the purposes of Part 5A of the *Forestry Act 2012*.

**Note.** The term is defined as follows:

**forestry operations** means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) the harvesting of forest products, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning and other silvicultural activities such as bee-keeping, grazing and bush fire hazard reduction, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

**freight transport facility** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

**function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

**funeral home** means premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons.

**Note.** Funeral homes are a type of **business premises**—see the definition of that term in this Dictionary.

**garden centre** means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

**Note.** Garden centres are a type of **retail premises**—see the definition of that term in this Dictionary.

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

**Note.** General industries are a type of **industry**—see the definition of that term in this Dictionary.

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and

- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

**ground level (existing)** means the existing level of a site at any point.

**ground level (finished)** means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

**ground level (mean)** means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

**group home** means a permanent group home or a transitional group home.

**Note.** Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**group home (permanent) or permanent group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**Note.** Permanent group homes are a type of **group home**—see the definition of that term in this Dictionary.

**group home (transitional) or transitional group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**Note.** Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

**hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

**Note.** Hardware and building supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**hazardous industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**Note.** Hazardous industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

***hazardous storage establishment*** means a building or place that is used for the storage of goods, materials or products and that would, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the building or place from existing or likely future development on other land in the locality), pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**Note.** Hazardous storage establishments are a type of ***heavy industrial storage establishment***—see the definition of that term in this Dictionary.

***headland*** includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

***health care professional*** means any person registered under an Act for the purpose of providing health care.

***health consulting rooms*** means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

**Note.** Health consulting rooms are a type of ***health services facility***—see the definition of that term in this Dictionary.

***health services facility*** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

***heavy industrial storage establishment*** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and that requires separation from other development because of the nature of the processes involved, or the goods, materials, plant or machinery stored, and includes any of the following:

- (a) a hazardous storage establishment,
- (b) a liquid fuel depot,
- (c) an offensive storage establishment.

***heavy industry*** means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes:

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

**Note.** Heavy industries are a type of ***industry***—see the definition of that term in this Dictionary.

***Height of Buildings Map*** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Height of Buildings Map.

***helipad*** means a place not open to the public used for the taking off and landing of helicopters.

***heliport*** means a place open to the public that is used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

**Note.** Heliports are a type of ***air transport facility***—see the definition of that term in this Dictionary.

**heritage conservation area** means an area of land of heritage significance:

- (a) shown on the Heritage Map as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 5,

and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Public Service agency responsible to the Minister administering the *Heritage Act 1977* that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**heritage impact statement** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

**Note.** An inventory of heritage items is also available at the office of the Council.

**Direction.** Heritage items must be shown on the Heritage Map.

**heritage management document** means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Heritage Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Heritage Map.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**high technology industry** means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,
- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

**Note.** High technology industries are a type of **light industry**—see the definition of that term in this Dictionary.

**highway service centre** means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

**home-based child care** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

**home business** means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used for a home business.

**home industry** means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used for a home industry.

Home industries are a type of **light industry**—see the definition of that term in this Dictionary.

**home occupation** means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any signage, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

**horticulture** means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

**Note.** Horticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops, kiosks, restaurants or cafes or take away food and drink premises,
- (e) patient transport facilities, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**Note.** Hospitals are a type of **health services facility**—see the definition of that term in this Dictionary.

**hostel** means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

**Note.** Hostels are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**hotel or motel accommodation** means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and

- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

**Note.** Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**industrial activity** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

**industrial retail outlet** means a building or place that:

- (a) is used in conjunction with an industry or rural industry, and
- (b) is situated on the land on which the industry or rural industry is located, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,

but does not include a warehouse or distribution centre.

**Note.** See clause 5.4 for controls relating to the retail floor area of an industrial retail outlet.

**industrial training facility** means a building or place used in connection with vocational training in an activity (such as forklift or truck driving, welding or carpentry) that is associated with an industry, rural industry, extractive industry or mining, but does not include an educational establishment, business premises or retail premises.

**industry** means any of the following:

- (a) general industry,
- (b) heavy industry,
- (c) light industry,

but does not include:

- (d) rural industry, or
- (e) extractive industry, or
- (f) mining.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

**intensive livestock agriculture** means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes any of the following:

- (a) dairies (restricted),
- (b) feedlots,
- (c) piggeries,
- (d) poultry farms,

but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

**Note.** Intensive livestock agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**intensive plant agriculture** means any of the following:

- (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
- (b) horticulture,



- (c) turf farming,
- (d) viticulture.

**Note.** Intensive plant agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**jetty** means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

**kiosk** means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

**Note.** See clause 5.4 for controls relating to the gross floor area of a kiosk.

Kiosks are a type of **retail premises**—see the definition of that term in this Dictionary.

**Land Application Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Application Map.

**Land Reservation Acquisition Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Reservation Acquisition Map.

**Land Zoning Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Zoning Map.

**landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

**landscaping material supplies** means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

**Note.** Landscaping material supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**light industry** means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

**Note.** Light industries are a type of **industry**—see the definition of that term in this Dictionary.

**liquid fuel depot** means premises used for the bulk storage of petrol, oil, petroleum or other inflammable liquid for wholesale distribution and at which no retail trade is conducted.

**Note.** Liquid fuel depots are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**livestock processing industry** means a building or place used for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals and includes abattoirs, knackeries, tanneries, woolscours and rendering plants.

**Note.** Livestock processing industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**Lot Size Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Lot Size Map.

**maintenance**, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

**marina** means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,

- (c) any facility for launching or landing boats, such as slipways or hoists,
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,
- (e) any berthing or mooring facilities.

**market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**Note.** Markets are a type of **retail premises**—see the definition of that term in this Dictionary.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

**Note.** Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

**mezzanine** means an intermediate floor within a room.

**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

**mine subsidence district** means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

**mining** means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

**Note.** Mining is not a type of **industry**—see the definition of that term in this Dictionary.

**mixed use development** means a building or place comprising 2 or more different land uses.

**mooring** means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel, but does not include a mooring pen.

**mooring pen** means an arrangement of freestanding piles or other restraining devices designed or used for the purpose of berthing a vessel.

**mortuary** means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

**moveable dwelling** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**moveable dwelling** means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

**Note.** Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**native fauna** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

**native flora** means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

**native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**Meaning of “native vegetation”**

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
  - (a) trees (including any sapling or shrub, or any scrub),
  - (b) understorey plants,
  - (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.
- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

**navigable waterway** means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**neighbourhood shop** means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

**Note.** See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.

Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

**nominated State heritage item** means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

**non-potable water** means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**NSW Coastal Policy** means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

**offensive industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

**Note.** Offensive industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

**offensive storage establishment** means a building or place that is used for the storage of goods, materials or products and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the building or place from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

**Note.** Offensive storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Note.** Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.  
**open cut mining** means mining carried out on, and by excavating, the earth's surface, but does not include underground mining.

**operational land** has the same meaning as in the *Local Government Act 1993*.

**parking space** means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

**passenger transport facility** means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

**people who are socially disadvantaged** means:

- (a) people who are disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or
- (b) people who require protection because of domestic violence or upheaval.

**people with a disability** means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

**Note.** Plant nurseries are a type of **retail premises**—see the definition of that term in this Dictionary.

**port facilities** means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**potable water** means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

**property vegetation plan** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**property vegetation plan** means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

**Note.** Pubs are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

**public authority** has the same meaning as in the Act.

**public land** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**public land** means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

**public reserve** has the same meaning as in the *Local Government Act 1993*.

**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Public Service agency or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Public Service agency, corporation, firm or authority carrying on the undertaking.

**rainwater tank** means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

**recreation area** means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

**Reduced Level (RL)** means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

**registered club** means a club that holds a club licence under the *Liquor Act 2007*.

**relic** has the same meaning as in the *Heritage Act 1977*.

**Note.** The term is defined as follows:

**relic** means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

**research station** means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

**residential care facility** means accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hostel, hospital or psychiatric facility.

**Note.** Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**Note.** Residential flat buildings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

**Note.** Resource recovery facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**respite day care centre** means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

**Note.** Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**restricted premises** means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

**restriction facilities** means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note.** Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

**roadside stall** means a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

**Note.** See clause 5.4 for controls relating to the gross floor area of roadside stalls.

Roadside stalls are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural industry** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),

- (d) sawmill or log processing works,
- (e) stock and sale yards,
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

**Note.** Rural industries are not a type of **industry**—see the definition of that term in this Dictionary.

**rural supplies** means a building or place used for the display, sale or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**Note.** Rural supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

**Note.** Rural workers' dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**sawmill or log processing works** means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

**Note.** Sawmill or log processing works are a type of **rural industry**—see the definition of that term in this Dictionary.

**school** means a government school or non-government school within the meaning of the *Education Act 1990*.

**Note.** Schools are a type of **educational establishment**—see the definition of that term in this Dictionary.

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.** See clause 5.4 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**self-storage units** means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

**Note.** Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

**Note.** Semi-detached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**seniors housing** means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.



**Note.** Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**serviced apartment** means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**Note.** Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**sewage reticulation system** means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

**Note.** Sewage reticulation systems are a type of **sewerage system**—see the definition of that term in this Dictionary.

**sewage treatment plant** means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

**Note.** Sewage treatment plants are a type of **sewerage system**—see the definition of that term in this Dictionary.

**sewerage system** means any of the following:

- (a) biosolids treatment facility,
- (b) sewage reticulation system,
- (c) sewage treatment plant,
- (d) water recycling facility,
- (e) a building or place that is a combination of any of the things referred to in paragraphs (a)–(d).

**sex services** means sexual acts or sexual services in exchange for payment.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**shop** means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

**Note.** Shops are a type of **retail premises**—see the definition of that term in this Dictionary.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note.** Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,
- (b) a building identification sign,
- (c) a business identification sign,

but does not include a traffic sign or traffic control facilities.

**site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

**Note.** The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

**site coverage** means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

**small bar** means a small bar within the meaning of the *Liquor Act 2007*.

**Note.** Small bars are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**spa pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

**stock and sale yard** means a building or place that is used on a commercial basis for the purpose of offering livestock or poultry for sale and that may be used for the short-term storage and watering of stock.

**Note.** Stock and sale yards are a type of **rural industry**—see the definition of that term in this Dictionary.

**storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

**swimming pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined as follows:

**swimming pool** means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

**take away food and drink premises** means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

**Note.** Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**telecommunications facility** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or
- (c) any other thing used in or in connection with a telecommunications network.

**telecommunications network** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

**temporary structure** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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

**timber yard** means a building or place the principal purpose of which is the sale of sawn, dressed or treated timber, wood fibre boards or similar timber products. It may include the cutting of such timber, boards or products to order and the sale of hardware, paint, tools and materials used in conjunction with the use and treatment of timber.

**Note.** Timber yards are a type of **retail premises**—see the definition of that term in this Dictionary.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include:

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

**transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.

**truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

**turf farming** means the commercial cultivation of turf for sale and the removal of turf for that purpose.

**Note.** Turf farming is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**underground mining** means:

- (a) mining carried out beneath the earth's surface, including bord and pillar mining, longwall mining, top-level caving, sub-level caving and auger mining, and
- (b) shafts, drill holes, gas and water drainage works, surface rehabilitation works and access pits associated with that mining (whether carried out on or beneath the earth's surface),

but does not include open cut mining.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

**vehicle sales or hire premises** means a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

**Note.** Vehicle sales or hire premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**viticulture** means the cultivation of grapes for use in the commercial production of fresh or dried fruit or wine.

**Note.** Viticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**waste disposal facility** means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

**Note.** Waste disposal facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**waste or resource management facility** means any of the following:

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

**Note.** Waste or resource transfer stations are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

**water recycling facility** means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

**Note.** Water recycling facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

**water reticulation system** means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**Note.** Water reticulation systems are a type of **water supply system**—see the definition of that term in this Dictionary.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**Note.** Water storage facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

**water supply system** means any of the following:

- (a) a water reticulation system,
- (b) a water storage facility,
- (c) a water treatment facility,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

**water treatment facility** means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

**Note.** Water treatment facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

**waterbody** means a waterbody (artificial) or waterbody (natural).

**waterbody (artificial)** or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

**waterbody (natural)** or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

**wharf or boating facilities** means a wharf or any of the following facilities associated with a wharf or boating that are not port facilities:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,

- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

***wholesale supplies*** means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

## Table of amending instruments

Standard Instrument (Local Environmental Plans) Order 2006 (155). GG No 42 of 31.3.2006, p 1879. Date of commencement, on gazettal. This Order has been amended as follows:

- 2006** (538) Standard Instrument (Local Environmental Plans) Amendment Order 2006. GG No 111 of 1.9.2006, p 7754.  
Date of commencement, on gazettal.
- 2007** (600) Standard Instrument (Local Environmental Plans) Amendment Order 2007. GG No 182 of 14.12.2007, p 9557.  
Date of commencement, 1.1.2008, cl 2.
- 2008** No 36 Environmental Planning and Assessment Amendment Act 2008. Assented to 25.6.2008.  
Date of commencement of Sch 5.7, 26.10.2009, sec 2 and 2009 (509) LW 23.10.2009.
- No 39 Filming Related Legislation Amendment Act 2008. Assented to 25.6.2008.  
Date of commencement, 30.3.2009, sec 2 and 2009 (103) LW 27.3.2009.
- No 62 Statute Law (Miscellaneous Provisions) Act 2008. Assented to 1.7.2008.  
Date of commencement of Sch 2.52, 1.1.2008, Sch 2.52.
- No 114 Statute Law (Miscellaneous Provisions) Act (No 2) 2008. Assented to 10.12.2008.  
Date of commencement of Sch 2.28, assent, sec 2 (2).
- 2009** No 56 Statute Law (Miscellaneous Provisions) Act 2009. Assented to 1.7.2009.  
Date of commencement of Sch 2.60, 17.7.2009, sec 2 (2).
- (362) Standard Instrument (Local Environmental Plans) Amendment (Affordable Rental Housing) Order 2009. LW 31.7.2009.  
Date of commencement, on publication on LW, cl 2.
- (516) Standard Instrument (Local Environmental Plans) Amendment (Entertainment Venues) Order 2009. LW 23.10.2009.  
Date of commencement, 26.10.2009, cl 2. Amended by Statute Law (Miscellaneous Provisions) Act (No 2) 2009 No 106. Assented to 14.12.2009. Date of commencement of Sch 2, 8.1.2010, sec 2 (2).
- 2010** (161) Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2010. LW 30.4.2010.  
Date of commencement, on publication on LW, cl 2.

- 2011** (82) Standard Instrument (Local Environmental Plans) Amendment (Zone B8 Metropolitan Centre) Order 2011. LW 23.2.2011.  
Date of commencement, on publication on LW, cl 2.
- (102) Standard Instrument (Local Environmental Plans) Amendment Order 2011. LW 25.2.2011.  
Date of commencement, on publication on LW, cl 2.
- (362) Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2011. LW 13.7.2011.  
Date of commencement, on publication on LW, cl 2.
- No 41 Transport Legislation Amendment Act 2011. Assented to 13.9.2011.  
Date of commencement of Sch 5.52, 1.11.2011, sec 2 and 2011 (559) LW 28.10.2011.
- No 62 Statute Law (Miscellaneous Provisions) Act (No 2) 2011. Assented to 16.11.2011.  
Date of commencement of Sch 2.31, 6.1.2012, sec 2 (1).
- 2012** (506) Standard Instrument (Local Environmental Plans) Amendment (Definitions) Order 2012. LW 5.10.2012.  
Date of commencement, on publication on LW, cl 2.
- No 96 Forestry Act 2012. Assented to 21.11.2012.  
Date of commencement of Sch 4.41, 7.1.2013, sec 2 and 2012 (680) LW 21.12.2012.
- 2013** No 5 Liquor Amendment (Small Bars) Act 2013. Assented to 19.3.2013.  
Date of commencement, 1.7.2013, sec 2 and 2013 (292) LW 21.6.2013.
- No 111 Statute Law (Miscellaneous Provisions) Act (No 2) 2013. Assented to 3.12.2013.  
Date of commencement of Sch 3.27, 10.1.2014, Sch 3.27.
- 2014** No 33 Statute Law (Miscellaneous Provisions) Act 2014. Assented to 24.6.2014.  
Date of commencement of Sch 2.36, 14.7.2014, Sch 2.36.
- (513) Standard Instrument (Local Environmental Plans) Amendment Order 2014. LW 15.8.2014.  
Date of commencement, on publication on LW, cl 2.
- 2015** No 15 Statute Law (Miscellaneous Provisions) Act 2015. Assented to 29.6.2015.  
Date of commencement of Sch 3, 15.7.2015, sec 2 (3).
- 2016** (43) Standard Instrument (Local Environmental Plans) Amendment (Maps) Order 2016. LW 27.1.2016.  
Date of commencement, 27.1.2016, cl 2.
- (126) Standard Instrument (Local Environmental Plans) Amendment Order 2016. LW 11.3.2016.  
Date of commencement, on publication on LW, cl 2.

## Table of amendments

- Cl 4 Am 2007 (600), Sch 1 [1] [2].
- Cl 5 Am 2007 (600), Sch 1 [3]; 2010 (161), Sch 1.



Cl 7	Am 2007 (600), Sch 1 [4].
Cl 8	Ins 2007 (600), Sch 1 [5]. Am 2015 No 15, Sch 3.54 [1].
Cl 9	Ins 2011 (102), Sch 1.
Standard Instrument	For information concerning the standard instrument before the commencement of 2007 (600), see the Historical table of amendments below.
Cl 1.1 (previously cl 1)	Renumbered 2007 (600), Sch 2 [182].
Cl 1.1AA	Ins 2010 (161), Sch 2 [1].
Cl 1.2 (previously cl 2)	Renumbered 2007 (600), Sch 2 [182].
Cl 1.3 (previously cl 3)	Am 2007 (600), Sch 1 [2]. Renumbered 2007 (600), Sch 2 [182].
Cl 1.4–1.6 (previously cll 4–6)	Renumbered 2007 (600), Sch 2 [182].
Cl 1.7 (previously cl 7)	Am 2007 (600), Sch 2 [3]–[7]. Renumbered 2007 (600), Sch 2 [182]. Am 2010 (161), Sch 2 [2]; 2011 (362), Sch 1 [1]; 2014 No 33, Sch 2.36 [1]; 2016 (43), cl 3.
Cl 1.8 (previously cl 8)	Renumbered 2007 (600), Sch 2 [182]. Am 2010 (161), Sch 2 [3]; 2011 (102), Sch 2 [1].
Cl 1.9 (previously cl 9)	Am 2007 (600), Sch 2 [8]. Renumbered 2007 (600), Sch 2 [182]. Am 2008 No 114, Sch 2.28 [1]; 2010 (161), Sch 2 [4]–[7]; 2014 No 33, Sch 2.36 [2]; 2014 (513), cl 3.
Cl 2.1 (previously cl 10)	Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [8]; 2011 (82), Sch 1 [1]; 2011 (102), Sch 2 [2].
Cl 2.2 (previously cl 11)	Renumbered 2007 (600), Sch 2 [182].
Cl 2.3 (previously cl 12)	Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [9]; 2011 (102), Sch 2 [3].
Cl 2.4 (previously cll 13)	Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [3] [4]; 2014 No 33, Sch 2.36 [3].
Cl 2.5 (previously cl 14)	Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [3]; 2011 (362), Sch 1 [2] [3].
Cl 2.6 (previously cl 15)	Am 2007 (600), Sch 2 [9]. Renumbered 2007 (600), Sch 2 [182]. Subst 2011 (102), Sch 2 [5]. Am 2011 (362), Sch 1 [4].
Cl 2.7 (previously cl 2.6AA)	Ins 2010 (161), Sch 2 [10]. Am 2011 (102), Sch 2 [3]. Renumbered 2011 (102), Sch 2 [6].
Cl 2.8 (previously cl 2.6BB)	Ins 2010 (161), Sch 2 [10]. Renumbered 2011 (102), Sch 2 [6].
Land Use Table	

Note	Ins 2010 (161), Sch 2 [11]. Am 2011 (362), Sch 1 [5].
Directions	Am 2007 (600), Sch 2 [10]; 2010 (161), Sch 2 [12]; 2011 (102), Sch 2 [7]; 2011 No 62, Sch 2.31; 2013 No 111, Sch 3.27 [1].
Zone RU1	Am 2007 (600), Sch 2 [11] [12]; 2011 (102), Sch 2 [8] [9]; 2011 (362), Sch 1 [6].
Zone RU2	Am 2007 (600), Sch 2 [11] [13].
Zone RU3	Am 2012 No 96, Sch 4.41 [1].
Zone RU4	Am 2007 (600), Sch 2 [14]–[16]. Subst 2011 (102), Sch 2 [10].
Zone RU5	Am 2007 (600), Sch 2 [15]; 2011 (102), Sch 2 [11].
Zone RU6	Am 2007 (600), Sch 2 [16]; 2011 (102), Sch 2 [12].
Zone R1	Am 2007 (600), Sch 2 [15] [17]; 2011 (102), Sch 2 [11].
Zone R2	Am 2007 (600), Sch 2 [15]; 2009 (362), cl 3 (1).
Zone R3	Am 2007 (600), Sch 2 [18]; 2011 (102), Sch 2 [11].
Zone R4	Am 2009 (362), cl 3 (2); 2011 (102), Sch 2 [11].
Zone R5	Am 2007 (600), Sch 2 [15] [16] [19]; 2011 (102), Sch 2 [9] [13].
Zone B1	Am 2007 (600), Sch 2 [20]–[22]; 2009 (362), cl 3 (3); 2011 (102), Sch 2 [14].
Zone B2	Am 2007 (600), Sch 2 [21] [22]; 2009 (362), cl 3 (3); 2011 (102), Sch 2 [15].
Zone B3	Am 2007 (600), Sch 2 [21]–[23]; 2011 (102), Sch 2 [15].
Zone B4	Am 2007 (600) Sch 2 [24]; 2011 (102), Sch 2 [15].
Zone B5	Am 2007 (600), Sch 2 [25] [26]; 2011 (102), Sch 2 [16] [17].
Zone B6	Am 2007 (600), Sch 2 [27]–[29]; 2011 (102), Sch 2 [18]–[20]; 2011 (362), Sch 1 [7].
Zone B7	Am 2011 (102), Sch 2 [11].
Zone B8	Ins 2011 (82), Sch 1 [2]. Am 2011 (362), Sch 1 [8].
Zone IN1	Am 2011 (102), Sch 2 [21]–[23].
Zone IN2	Am 2007 (600), Sch 2 [30]; 2011 (102), Sch 2 [21] [22].
Zone IN3	Am 2011 (102), Sch 2 [21] [23] [24].
Zone IN4	Am 2011 (102), Sch 2 [25]; 2011 (362), Sch 1 [9].
Zone SP1	Am 2007 (600), Sch 2 [22].
Zone RE1	Am 2007 (600), Sch 2 [31].
Zone E1	Am 2007 (600), Sch 2 [32]–[35].
Zone E2	Am 2007 (600), Sch 2 [36]; 2008 No 62, Sch 2.52 [1]; 2011 (102), Sch 2 [26].
Zone E3	Am 2007 (600), Sch 2 [15] [37] [38].
Zone E4	Am 2007 (600), Sch 2 [15] [39] [40].
Zone W1	Am 2007 (600), Sch 2 [41] [42]; 2010 (161), Sch 2 [13]; 2011 (102), Sch 2 [26].
Zone W2	Am 2007 (600), Sch 2 [41] [43]–[45]; 2010 (161), Sch 2 [13].
Zone W3	Am 2007 (600), Sch 2 [45]–[48]; 2011 (102), Sch 2 [25] [27].

Part 3, direction	Rep 2007 (600), Sch 2 [49].
Cl 3.1 (previously cl 16)	Am 2007 (600), Sch 2 [50]. Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [14]–[17].
Cl 3.2 (previously cl 17)	Am 2007 (600), Sch 2 [51]–[54]. Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2009 (516), Sch 1 [1]; 2010 (161), Sch 2 [18] [19]; 2011 (102), Sch 2 [3] [28]; 2014 No 33, Sch 2.36 [4].
Cl 3.3 (previously cl 18)	Am 2007 (600), Sch 2 [55]. Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [29].
Cl 4.1 (previously cl 19)	Subst 2007 (600), Sch 2 [56]. Renumbered 2007 (600), Sch 2 [182].
Cl 4.1AA	Ins 2011 (102), Sch 2 [30]. Am 2011 (362), Sch 1 [10].
Cl 4.2 (previously cl 20)	Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2011 (102), Sch 2 [3] [31].
Cl 4.3 (previously cl 21)	Subst 2007 (600), Sch 2 [57]. Renumbered 2007 (600), Sch 2 [182].
Cl 4.4 (previously cl 22)	Subst 2007 (600), Sch 2 [58]. Renumbered 2007 (600), Sch 2 [182].
Cl 4.5 (previously cl 23)	Am 2007 (600), Sch 2 [59]. Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [32].
Cl 4.6 (previously cl 24)	Am 2007 (600), Sch 2 [60] [61]. Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [20]; 2011 (102), Sch 2 [3] [31] [33]–[35]; 2015 No 15, Sch 3.54 [2].
Cl 5.1 (previously cl 25)	Am 2007 (600), Sch 2 [62]. Renumbered 2007 (600), Sch 2 [182]. Am 2011 No 41, Sch 5.52.
Cl 5.2 (previously cl 27)	Am 2007 (600), Sch 2 [64]–[67]. Renumbered 2007 (600), Sch 2 [182].
Cl 5.3 (previously cl 28)	Renumbered 2007 (600), Sch 2 [182]. Am 2010 (161), Sch 2 [21] [22]; 2011 (102), Sch 2 [36] [37]; 2013 No 111, Sch 3.27 [2].
Cl 5.4 (previously cl 28AA)	Ins 2007 (600), Sch 2 [68]. Renumbered 2007 (600), Sch 2 [182]. Am 2008 No 62, Sch 2.52 [2]; 2009 No 56, Sch 2.60 [1]; 2011 (102), Sch 2 [38]–[40].
Cl 5.5 (previously cl 32)	Am 2007 (600), Sch 2 [72]–[77]. Renumbered 2007 (600), Sch 2 [182]. Am 2010 (161), Sch 2 [23]; 2011 (102), Sch 2 [41] [42].
Cl 5.6 (previously cl 32AA)	Ins 2007 (600), Sch 2 [78]. Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [24]; 2011 (102), Sch 2 [3].
Cl 5.7 (previously cl 33)	Renumbered 2007 (600), Sch 2 [182].

Cl 5.8 (previously cl 33AA)	Ins 2007 (600), Sch 2 [79]. Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [3] [43].
Cl 5.9 (previously cl 34)	Am 2007 (600), Sch 2 [80]. Renumbered 2007 (600), Sch 2 [182]. Am 2007 (600), Sch 2 [182]; 2011 (102), Sch 2 [44]–[50]; 2014 No 33, Sch 2.36 [5].
Cl 5.9AA	Ins 2011 (102), Sch 2 [51].
Cl 5.10 (previously cl 35)	Am 2007 (600), Sch 2 [81]–[87]. Renumbered 2007 (600), Sch 2 [182]. Subst 2011 (102), Sch 2 [52]. Am 2011 (362), Sch 1 [11].
Cl 5.11 (previously cl 36)	Renumbered 2007 (600), Sch 2 [182]. Am 2011 (102), Sch 2 [3].
Cl 5.12 (previously cl 38)	Subst 2007 (600), Sch 2 [89]. Renumbered 2007 (600), Sch 2 [182]. Am 2010 (161), Sch 2 [25]; 2011 (102), Sch 2 [3] [53].
Cl 5.13	Ins 2011 (102), Sch 2 [54]. Am 2013 No 111, Sch 3.27 [3] [4].
Sch 1	Am 2007 (600), Sch 2 [182].
Sch 2	Am 2007 (600), Sch 2 [90] [182]; 2008 No 39, Sch 1.4 [1]–[6]; 2008 No 62, Sch 2.52 [3]–[9]; 2009 (516), Sch 1 [2] [3] (am 2009 No 106, Sch 2.38); 2010 (161), Sch 2 [26] [27]; 2011 (102), Sch 2 [55] [56].
Sch 3	Subst 2007 (600), Sch 2 [91]. Am 2007 (600), Sch 2 [182]; 2010 (161), Sch 2 [28] [29]; 2011 (102), Sch 2 [57]; 2014 No 33, Sch 2.36 [6].
Sch 4	Subst 2007 (600), Sch 2 [92]. Am 2007 (600), Sch 2 [182].
Sch 5	Am 2007 (600), Sch 2 [93] [182]; 2011 (102), Sch 2 [58].
Dictionary	Am 2007 (600), Sch 2 [94]–[182]; 2008 No 36, Sch 5.7; 2008 No 62, Sch 2.52 [10]–[14]; 2008 No 114, Sch 2.28 [2] [3]; 2009 No 56, Sch 2.60 [2]; 2009 (362), cl 3 (4) (5); 2009 (516), Sch 1 [4]–[7]; 2010 (161), Sch 2 [30]–[35]; 2011 (102), Sch 2 [59]; 2011 (362), Sch 1 [12]–[20]; 2012 (506), Sch 1; 2012 No 96, Sch 4.41 [2]; 2013 No 5, Sch 2.3 [1] [2]; 2013 No 111, Sch 3.27 [5]–[8]; 2014 No 33, Sch 2.36 [7]; 2015 No 15, Sch 3.54 [3] [4].
The whole instrument	Am 2007 (600), Sch 2 [1] (“ <i>or other relevant name</i> ” inserted after “ <i>Name of local government area</i> ” wherever occurring).

## Historical table of amendments

Information concerning the standard instrument before the commencement of 2007 (600).

Cl 7	Am 2006 (538), Sch 1 [1].
Land Use Table	
Zone RU1	Am 2006 (538), Sch 1 [2].
Zone R4	Am 2006 (538), Sch 1 [3].
Zone IN1	Am 2006 (538), Sch 1 [4].
Zone SP3	Am 2006 (538), Sch 1 [5].
Zones W2, W3	Am 2006 (538), Sch 1 [6].
Cl 23	Ins 2006 (538), Sch 1 [7].

Cl 24 (previously cl 23)	Renumbered 2006 (538), Sch 1 [8].
Cl 24 (as originally gazetted)	Rep 2006 (538), Sch 1 [9].
Cl 25	Ins 2006 (538), Sch 1 [9].
Cl 26	Ins 2006 (538), Sch 1 [9]. Rep 2007 (600), Sch 2 [63].
Cl 27 (previously cl 25)	Renumbered 2006 (538), Sch 1 [10]. Am 2006 (538), Sch 1 [11].
Cl 28 (previously cl 26)	Renumbered 2006 (538), Sch 1 [10].
Cl 29 (previously cl 27)	Renumbered 2006 (538), Sch 1 [10]. Rep 2007 (600), Sch 2 [69].
Cl 30 (previously cl 28)	Renumbered 2006 (538), Sch 1 [10]. Rep 2007 (600), Sch 2 [70].
Cl 31 (previously cl 29)	Renumbered 2006 (538), Sch 1 [10]. Rep 2007 (600), Sch 2 [71].
Cll 32, 33 (previously cll 30, 31)	Renumbered 2006 (538), Sch 1 [10].
Cl 34 (previously cl 32)	Renumbered 2006 (538), Sch 1 [10]. Am 2006 (538), Sch 1 [12]–[14].
Cl 35 (previously cl 33)	Renumbered 2006 (538), Sch 1 [10]. Am 2006 (538), Sch 1 [15].
Cl 36 (previously cl 34)	Renumbered 2006 (538), Sch 1 [10].
Cl 37 (previously cl 35)	Renumbered 2006 (538), Sch 1 [10]. Am 2006 (538), Sch 1 [16] [17]. Rep 2007 (600), Sch 2 [88].
Cl 38 (previously cl 36)	Renumbered 2006 (538), Sch 1 [10]. Am 2006 (538), Sch 1 [18] [19].
Dictionary	Am 2006 (538), Sch 1 [20]–[31].



Planning &  
Environment

# ***Northern Councils E Zone Review***

## ***Final Recommendations Report***

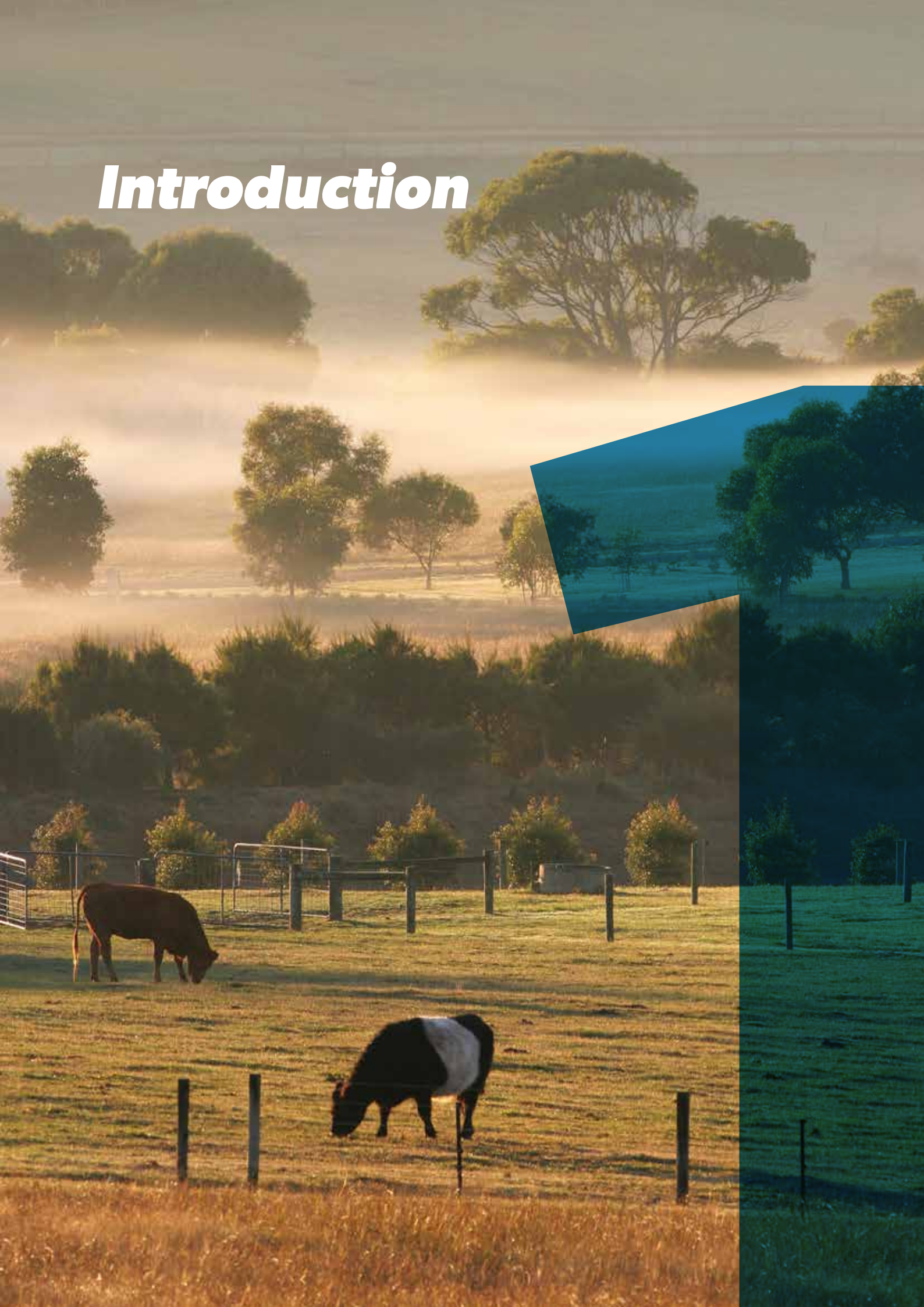




## **Contents**

<b>1. Introduction</b>	<b>4</b>
<b>2. Discussion</b>	<b>6</b>
Application of E2 and E3 Zones	6
Previous Environmental Protection (7) Zones	7
Application of the E4 Zone	8
Permissibility of Agriculture in E Zones	8
Mapped Planning Controls and Associated Clauses	9
Aesthetic Values	10
<b>3. Final Recommendations</b>	<b>12</b>
Application of E Zones	12
Considerations for Applying E Zones and Additional Mapped Planning Controls	15
Additional Considerations for Far North Coast Councils	16
Statewide Implications	16
<b>Appendix 1</b>	<b>17</b>

# ***Introduction***





# 1. Introduction

The Minister for Planning and Infrastructure, in September 2012, announced a review of the application of environmental zones (E zones) and environmental overlays in Local Environmental Plans (LEPs) on the Far North Coast.

The review applies to the Local Government Areas (LGAs) of Ballina, Byron, Kyogle, Lismore and Tweed.

Parsons Brinckerhoff undertook an independent review into the way E zones and overlays were being applied to land on the Far North Coast. The findings of Parsons Brinckerhoff are contained in the *Northern Councils E Zone Review Interim Report* (the 'Interim Report').

The Interim Report was placed on public exhibition from 14 May 2014 to 5 June 2014. Over 400 submissions to the Interim Report were received. The matters raised in the submissions are discussed in the *Northern Councils E Zone Review Submissions Report*.

Following consideration of all the submissions received and the recommendations of the Interim Report, final recommendations have been developed. The recommendations apply to the five LGAs of Ballina, Byron, Kyogle, Lismore and Tweed.

A Section 117 Ministerial direction will be issued to ensure that application of E zones in these LGAs, and to areas deferred from their Local Environmental Plans, is consistent with the final recommendations of the Northern Councils E Zone Review.

The Final Recommendations will initially apply only to the five Far North Coast councils. The Department of Planning and Environment will investigate the implications of these recommendations for the rest of the State. However, if other councils in the State are reviewing the application of E zones, then the principles contained in these recommendations can be used.





# ***Discussion***



## 2. Discussion

### Application of E2 and E3 Zones

The Interim Report established criteria for the application of the E2 and E3 zones and the principle of zoning land consistent with its primary use.

The vast majority of submissions to the Interim Report supported the development of criteria for the application of E zones. Many submissions suggested alterations or additions to the criteria and raised concerns regarding the procedure for applying the criteria, including:

- What is the process for applying the criteria?
- How is the primary use of the land determined?
- How will the criteria be validated?
- Will the criteria allow for multiple zones on single allotments?
- How will land that has been voluntarily revegetated be treated if it satisfies the criteria for an E zone?
- Can an E zone be applied to land which does not meet the criteria if it is public land or where there is landowner agreement?

The Department supports the use of clear criteria to ensure that the value of E zones is not diminished by inappropriate application and that zoning decisions are evidence-based. The final criteria for the application of the E2 and E3 zones have been developed by taking account of matters raised in the submissions and in consultation with the NSW Office of Environment and Heritage (OEH). The final criteria are listed in **Section 3 – Final Recommendations**.

Responding to the concerns raised in the submissions, a defined process for applying E zones is recommended. The process for applying E zones is listed in **Section 3 – Final Recommendations** and summarised in the next column and on page 7.

### Process for applying the E zone criteria

- E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land has attributes which have been verified to meet the criteria for an E2 or E3 zone.
- The *primary use of the land* is the main use for which the land has been used for the last two (2) years. This period of time will ensure the zone reflects established, lawful land uses. This may mean that land which is currently zoned rural could continue to have a rural zone but may have parts of that land which have attributes that meet the criteria for an E2 or E3 zone included in a mapped planning control.
- If the land has attributes that meet the E2 criteria, however the primary use of the land is environmental management rather than environmental conservation, a council may apply an E3 zone.
- It is not mandatory to apply an E2 or E3 zone even if the land has been verified to meet the criteria. If council believes the intended primary use of the land does not warrant an E zone, then other mapped planning controls can be applied.

### Verifying the E zone criteria

- An E2 or E3 zone or mapped planning control cannot be applied to land unless attributes that meet the E2 or E3 criteria have been verified on the land.
- Verification of the presence of attributes that meet the E2 or E3 criteria on the site must be undertaken by one, or a combination of verification techniques, such as field inspections, flora and fauna studies conducted by a suitably qualified person, review of current high resolution imagery and cultural studies, or consultation with Aboriginal cultural knowledge holders in relation to culturally significant lands.





### **Voluntarily revegetated land**

- Land which has been actively revegetated by the current landowner will not have an E2 or E3 zone applied to it without the landowner's agreement unless the revegetation was undertaken with grant funding which required ongoing protection of the vegetation.
- Planning controls through a Vegetation Map can be applied to this revegetated land without the landowner's agreement.

### **Public and private land inconsistent with the criteria**

- Public land may be zoned E2 or E3, despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management.
- Private land may be zoned E2 or E3, despite being inconsistent with the criteria, only if it is consistent with a negotiated development outcome (master plan, rezoning, development consent, designated offset areas) or at the request of the landowner.

### **Application of multiple zones to a single property (split zoned lots)**

- More than one zone can be applied to properties where the characteristics of different areas of the land reflect different primary uses of the land.

## **Previous Environmental Protection (7) Zones**

The Interim Report recommended a list of previous environmental protection zones that should be transferred to an E2 zone.

Submissions to the Interim Report both supported and opposed the transfer of existing environmental protection zones to the E2 zone. Opposition was based on the inaccuracy of existing LEP mapping, or a belief that an environmental protection zone was inappropriate for the land.

The Department supports the transfer of some current environmental protection (7) zones to an E2 or E3 zone once councils have verified the attributes of the land against the criteria. If the land does not meet the criteria the zone will not be transitioned. This approach is consistent with the Government's support for the application of zones where there is evidence of significant environmental attributes. It is not considered necessary for councils to apply the primary use of land principle to land which already has an environmental protection (7) zone as the land is currently identified for environmental conservation or management.

The list of current E zones which may be transferred, subject to verification, is included in **Section 3 – Final Recommendations**. The 5(b) Rural (High Flood Hazard Liable) land zone under Byron LEP 1988 has been removed from the list of existing E zones that may be transferred to an E2 zone. This zone primarily relates to flooding, which can be appropriately managed by the Standard LEP flood mapping and associated clauses. Significant vegetation communities that may be present in the existing 5(b) zone are listed under other E2 criteria. Land comprising these vegetation communities could therefore be zoned E2 if the land is primarily used for environmental conservation purposes.

In accordance with the recommendations of the Interim Report, Kyogle Council should apply a rural zone, equivalent to the zone in the Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones.



## Application of the E4 Zone

The Interim Report recommended that the E4 zone which was proposed in the draft Byron LEP 2014 should be replaced with an appropriate residential zone.

The submissions both supported and opposed the replacement of the E4 zone with a residential zone. The submissions also included support for the retention of the E4 zone within the Standard Instrument LEP for use in other areas and in other LGAs.

The Department supports replacement of the proposed E4 zone in Byron with an appropriate residential zone. This is consistent with the principle that if the environmental significance is not the primary consideration, then the land should not be allocated an environmental zoning. A suitable residential zone is to be applied to this land.

In future and throughout the Far North Coast and the State, an E4 zone can be applied if the zoning is consistent with the Department's Practice Note *PN09-002 Environment Protection Zones*. The zone will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have higher conservation values.

## Permissibility of Agriculture in E Zones

The Interim Report recommended that *extensive agriculture* should be permitted with consent in the E2 zone (except in Tweed LEP 2012) and should be permitted without consent in the E3 zone.

A substantial number of submissions stated that *extensive agriculture* should be prohibited (i.e. not permitted) in the E2 zone and be permitted with consent in the E3 zone. Concerns were raised that activities associated with *extensive agriculture* would not be compatible with the significant environmental attributes of land in an E zone.

On the other hand, many submissions raised concerns that not permitting *extensive agriculture* in environmental zones would significantly affect current and future agricultural activities. Such an effect could occur where agriculture is being conducted on land which was to be zoned E2 or E3. If *extensive agriculture* is not permitted in that zone, landowners would have to rely on existing use rights to continue their farming practices.

### Permissibility of Agriculture in the E2 zone

The Department recommends that *extensive agriculture* be permitted with consent in the E2 zone for the Far North Coast LEPs. The Interim Report proposed to allow *extensive agriculture* to be prohibited in the E2 zone in Tweed LEP. However *extensive agriculture* is permitted with consent in the Tweed LEP 2000, subject to additional provisions in the LEP, and therefore in order to maintain the development potential of this land, and for consistency across the Far North Coast, the Department considers it appropriate that *extensive agriculture* be permitted with consent in the E2 zone in the Tweed Local Government Area or any other LGA.





The criteria for the application of the E2 zone will ensure that it is only applied to land containing vegetation with significant environmental attributes that is being used primarily for environmental conservation purposes. Listing *extensive agriculture* as 'permitted with development consent' in the E2 zone land use table, would ensure farmers do not have to rely on 'existing use rights' if an E2 zone is applied to land that is being used for agricultural activities. It will also provide opportunity for new agricultural activities that may be consistent with the E2 zone objectives, to be considered by a council through a development application process. Such activities would constitute those that do not destroy, damage or have an adverse effect on areas of high ecological, scientific or cultural values. This is expected to be limited to activities such as understorey grazing.

### **Permissibility of Agriculture in the E3 zone**

*Extensive agriculture* should be permitted without consent in the E3 zone for the Far North Coast LEPs. While the E3 zone will apply to areas with environmental significance, the criteria allow a broader application than the E2 criteria. These areas may encompass land where *extensive agriculture* currently occurs, such as understorey grazing or for flood refuge. It is appropriate that *extensive agriculture* activities should be able to continue on this land without the need to obtain development approval. New *extensive agriculture* activities will be permitted without consent as it is envisaged that the impact on land will be minimal. Any required clearing will still require approval under the *Native Vegetation Act 2003*.

### **Existing Use Rights**

The Department will investigate the possibility of an amendment to the *Environmental Planning and Assessment Act 1979* or the *Environmental Planning and Assessment Regulation 2000*, to remove or extend the 12-month time limit which extinguishes existing use rights for the land use *extensive agriculture*.

### **Mapped Planning Controls and Associated Clauses**

The Interim Report recommended the use of overlays (mapped planning controls) to protect environmental values that do not meet the criteria for an E2 or E3 zone.

Support for the use of mapped planning controls in the submissions was based on protecting environmental attributes that are not immediately suited to an E zone. Mapped planning controls also provide transparent guidance to applicants on the matters a consent authority will consider when they assess a development application. Submissions which did not support the use of mapped planning controls raised concerns that they constitute an unnecessary duplication of other legislation and are considered a burden on rural landowners.

The following recommendations are made in response to the matters relating to mapped planning controls:

#### **Public health, safety, risk and hazard**

- The Department supports LEP mapping and accompanying clauses which manage matters of public health, safety, risk and hazard. These are fundamental matters of public health and safety which must be managed through the planning system. Accordingly, it is recommended that mapped planning controls can be applied for matters such as drinking water catchments, flooding, coastal risk areas and land subject to strict development controls such as steep land.



### **Native Vegetation**

- The Department's Interim Response did not support the use of biodiversity mapping. However, after reviewing the principle of the primary use of the land, the use of clear criteria for the application of E zones, and the need for verification of the vegetation attributes, the Department has reconsidered its position. The use of a Vegetation Map provides flexibility and an optional mechanism for the management of significant native vegetation, without having to apply an E zone. A Vegetation Map will not duplicate E2 or E3 zones. The map and associated clauses will identify the matters that need to be considered in a development application for proposed land uses that require development consent. Land uses that are permitted without consent, such as some forms of *extensive agriculture* in rural zones, will not be subject to the map provisions in the LEPs. Existing agricultural practices that are currently being undertaken on land will not be subject to the provisions of the map.

### **Scenic Protection**

- The Department maintains its position that scenic protection is a matter best assessed and managed at development application stage, when details of a proposal are assessed and appropriate conditions can be imposed. Issues relating to scenic protection may be identified in a development control plan or Scenic Protection Strategy, to provide guidance in terms of design and siting of buildings in visually prominent locations. Councils on the Far North Coast will not be permitted to apply mapped planning controls for scenic protection in LEPs.

### **Aesthetic Values**

The Interim Report recommended the removal of aesthetic values as an attribute to be protected and managed by an E zone. Concerns were raised in the submissions that the removal of aesthetic values would have ramifications for all Standard Instrument LEPs in NSW.

The Northern Councils E Zone Review has resulted in a refocusing of E zones towards land containing significant native vegetation. Aesthetic values do not always rely on the presence of significant native vegetation, for instance agricultural landscapes can have aesthetic significance. The Department maintains its position that aesthetic values can be addressed through DCP provisions, a Scenic Protection Strategy, or the development application process, and therefore recommends the removal of aesthetic values as an attribute to be protected and managed by an E zone.

The exclusion of aesthetic value criteria from E zones will initially apply only to the five Far North Coast councils. The Department will consider a revision of the Standard Instrument LEP template to remove 'aesthetic values' from the zone objectives of the E2 and E3 zones. Until this revision takes place, councils on the Far North Coast will not be permitted to use scenic or aesthetic values as an attribute for the application of an E2 or E3 zone or mapped planning controls.



# ***Final Recommendations***





# 3. Final Recommendations

## Application of E Zones

### 1 When will E zones be applied?

- E2 and E3 zones will only be applied if the *primary use of the land* is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone (Tables 1 and 2).
- An E4 zone can be applied if the land contains attributes that are consistent with the Department's Practice Note *PN09-002 Environment Protection Zones*.

### 2 How will the primary use of the land be determined?

- The primary use of the land is the main use for which the land has been used for the last two (2) years. This may mean that land which is currently zoned rural will continue to have a rural zone but it may have parts of that land which have attributes that meet the criteria for an E2 or E3 zone included in a mapped planning control.
- The primary use of the land may vary across a particular property depending on the characteristics of the land. This may result in more than one zone being applied to the land.
- The primary use of land will be identified during the preparation of a planning proposal.

### 3 What are the E zone Criteria?

- The land proposed to be zoned E2 or E3 must contain one or more of the criteria listed in Tables 1 and 2.

### 4 What is the procedure for applying an E2 or E3 zone to land?

- Councils will assess land against the E zone criteria and consider the primary use of the land before proposing an E2 or E3 zone.
- An E2 or E3 zone can only be applied to land with a primary use of environmental conservation or environmental management and, which has attributes that have been verified to meet the E zone criteria.
- If the land has attributes that meet the E2 criteria, however the primary use of the land is environmental management rather than environmental conservation, a council may apply an E3 zone.
- If a council believes the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.
- The E zones will not include buffers to the vegetation attributes that meet the E zone criteria.

**Table 1: E2 zone Criteria**

Criteria	Description
SEPP 26 Littoral Rainforests.	Land mapped as littoral rainforest in accordance with the statewide policy for littoral rainforest protection ( <i>State Environmental Planning Policy 26 – Littoral Rainforests</i> ).
SEPP 14 Coastal Wetlands.	Land mapped as coastal wetlands in accordance with the statewide policy for coastal wetland protection ( <i>State Environmental Planning Policy 14 – Coastal Wetlands</i> ).
Endangered Ecological Communities (EECs) listed under the <i>Threatened Species Conservation Act 1995</i> and/or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	<p>Land containing vegetation communities listed as Endangered Ecological Communities under the <i>Threatened Species Conservation Act 1995</i> (TSC)<sup>1</sup> and the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC)<sup>2</sup>.</p> <p>The <i>Far North Coast Regional Conservation Plan</i><sup>3</sup> lists the following vegetation communities as examples of EECs that currently exist on the Far North Coast:</p> <p><i>Byron Bay Dwarf Graminoid Heath Community, Coastal Cypress Pine Forest, Coastal Saltmarsh, Freshwater Wetlands in Coastal Floodplains, Littoral Rainforest, Lowland Rainforest, Lowland Rainforest on Floodplains, Subtropical Coastal Floodplain Forest, Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest on Coastal Floodplains, Themeda grassland on Seacliffs and Coastal Headlands, White Gum Yellow Gum Blakely's Red Gum Woodland, and White Gum Moist Forest.</i></p> <p>Other vegetation communities may be added consistent with these Acts in the future.</p>
Key Threatened Species Habitat.	<p>This criterion includes:</p> <ul style="list-style-type: none"> <li>• old-growth forests where the overstorey or canopy trees are in the late mature stage of growth<sup>4</sup>;</li> <li>• areas of predicted high conservation value for forest fauna assemblages, refugia, endemic forest fauna or endemic invertebrates<sup>5</sup>, and</li> <li>• habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present<sup>6</sup>.</li> </ul>
Over-cleared vegetation communities.	<p>Land comprising:</p> <ol style="list-style-type: none"> <li>1. over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared<sup>7</sup> and</li> <li>2. native vegetation in over-cleared Mitchell landscapes<sup>8</sup>.</li> </ol> <p>The <i>Far North Coast Regional Conservation Plan</i> lists the following as examples of:</p> <ul style="list-style-type: none"> <li>• Over-cleared vegetation communities on the Far North Coast<sup>9</sup>: <ul style="list-style-type: none"> <li>– Rainforests, Wet sclerophyll forests (shrubby and grassy subformations), Dry sclerophyll forests (shrubby and shrub/grass subformations), Grassy woodlands, Grasslands (Themeda australis sod tussock), Heathlands, Forested wetlands, Freshwater wetlands, Saline wetlands; and</li> </ul> </li> <li>• Over-cleared Mitchell landscapes<sup>9</sup>: <ul style="list-style-type: none"> <li>– Byron–Tweed Alluvial Plains, Byron–Tweed Coastal Barriers, Clarence–Richmond Alluvial Plains and Upper Clarence Channels and Floodplains.</li> </ul> </li> </ul>
Culturally significant lands.	Areas of culturally significant lands such as Aboriginal object sites, Aboriginal places of heritage significance, and other significant objects identified by the local Aboriginal community <sup>10</sup> .

1 <http://www.environment.gov.au/biodiversity/threatened/communities/nsw-act>

2 <http://www.environment.nsw.gov.au/threatenedspeciesapp/default.aspx?keywords>

3 Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p24

4 <http://www.epa.nsw.gov.au/resources/pnf/OGRFreviewFieldIdent.pdf>

5 Scotts, D 2003, Key Habitats and Corridors for Forest Fauna: A Landscape Framework for Conservation in North-east New South Wales, NPWS Occasional Paper no. 32, National Parks and Wildlife Service, Sydney, NSW.

6 NSW Office of Environment and Heritage 'Threatened Species Profiles Database' <http://www.bionet.nsw.gov.au>

7 Keith, DA 2006, Ocean Shores to Desert Dunes the Native Vegetation of New South Wales and the ACT, Department of Environment and Climate Change, Hurstville.

8 Mitchell, PB 2002, 'NSW Ecosystems Study: Background and Methodology', report prepared for National Parks and Wildlife Service, Hurstville, NSW and Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p27.

9 Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p26

10 Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011)

**Table 2: E3 zone Criteria**

Criteria	Description
Riparian and estuarine vegetation and wetlands.	Land comprising riparian and estuarine vegetation on <i>waterfront land</i> , defined under the <i>NSW Water Management Act 2000</i> , or wetland areas other than those mapped as SEPP 14 Coastal Wetlands.  Waterfront land is defined under the <i>NSW Water Management Act 2000</i> as the bed of any river, lake or estuary and any land within 40 metres of the river banks, lake shore or estuary mean high water mark.
Rare, Endangered and Vulnerable Forest Ecosystems.	Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by the <i>Joint ANZEC/MCFFA National Forest Policy Statement Implementation sub-committee (JANIS)</i> (Commonwealth of Australia 1997) <sup>1</sup> .
Native vegetation on coastal foreshores.	Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform.

<sup>1</sup> Refer to Appendix 1

## 5 How is the E zone criteria verified?

- An E2 or E3 zone or other mapped planning controls cannot be applied to land unless the attributes that meet the E2 or E3 criteria have been verified on that land.
- Verification of the presence of attributes that meet the E2 or E3 criteria on the site must be undertaken by one or a combination of the following:
  - biodiversity field inspections and ground surveys conducted by an appropriately qualified person.
  - Aboriginal heritage field inspections and ground surveys conducted by an appropriately qualified person or someone with extensive field experience and in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*, NSW Department of Environment, Climate Change & Water (2010).
  - supporting flora and fauna reports conducted by a suitably qualified person and guided by the *Draft Framework for Biodiversity Assessment*, NSW Office of Environment and Heritage (2014) and the *Draft*

*Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities*, NSW

Department of Environment and Conservation (2004). Such reports will only be acceptable where the field work is not more than five years old.

- review of current (not more than five years old) high resolution digital aerial photography that has been verified by another one of these verification techniques.
- supporting cultural heritage reports conducted by a suitably qualified person and in accordance with a *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*, NSW Department of Environment, Climate Change & Water (2011).
- consultation with Aboriginal cultural knowledge holders in regard to culturally significant lands in accordance with a *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*, NSW Department of Environment, Climate Change & Water (2011).

## Considerations for Applying E Zones and Additional Mapped Planning Controls

### 6 Transferring environmental zones

- The areas of land to which the current environmental protection zones listed in the Table 3 (below) apply, may be zoned E2 or E3 once councils have verified the attributes of the land against the criteria.

**Table 3: Current Environmental Protection Zones**

<b>Ballina LEP 1987</b>
7(a) Environmental Protection (Wetlands)
7(l) Environmental Protection (Habitat)
<b>Byron LEP 1988</b>
7(a) Environmental Protection (Wetlands)
7(b) Environmental Protection (Coastal Habitat)
7(j) Environmental Protection (Scientific)
7(k) Environmental Protection (Habitat)
<b>Lismore LEP 2000</b>
7(a) Environment Protection (Natural Vegetation and Wetlands)
7(b) Environment Protection (Habitat)
<b>Tweed LEP 2000</b>
7(a) Environmental Protection (Wetlands and Littoral Rainforests)
7(l) Environmental Protection (Habitat)

- Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones or additional mapped planning controls.

### 7 Public and private land inconsistent with the criteria

- Public land may be zoned E2 or E3 despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management.

- Private land may be zoned E2 or E3 despite being inconsistent with the criteria, only if it is consistent with a negotiated development outcome (master plan, rezoning, development consent, designated offset areas) or at the request of the landowner.

### 8 Voluntarily revegetated land

- Land which has been voluntarily revegetated by the current landowner, will not have an E2 or E3 zone applied to it without the agreement of the current landowner providing:
  - the revegetation has been actively undertaken and is not the result of natural regrowth;
  - active revegetation includes a combination of planting, seeding, weed control, fencing, removing stock, watering, ripping, mulching and soil improvement to encourage the natural regeneration of native vegetation; and
  - the primary use of the land is agriculture.
- Land which has been voluntarily revegetated can be included on a Vegetation Map without the agreement of the current landowner if the attributes have been verified to meet the criteria for an E2 or E3 zone and the primary use of the land is environmental conservation or environmental management.
- If revegetation has been undertaken with the support of grant funding, and a condition of that funding was the ongoing conservation or management of the vegetation, then an E2 or E3 zone may be applied to the land.

### 9 Zoning of State and regionally significant farmland

- When zoning State or regionally significant farmland, councils will have to take account of the primary use of the land before applying an E zone or a rural zone.

### 10 Application of multiple zones to a single property (split zoned lots)

- More than one zone can be applied to properties where the characteristics of different areas of the land reflect the different primary uses of the land.
- Councils should consider the suitability of alternative zones or including the land on a Vegetation Map when considering more than one zone for a property.
- As a general principle, the use of multiple zones on a property should be minimised as far as possible.



### 11 Application of the E4 zone in Byron Council

- Byron Shire Council is to prepare a planning proposal to apply a suitable residential zone to that land where an E4 zone was proposed under the draft Byron LEP.

### 12 Application of additional mapped planning controls

- Matters of public health, safety, risk and hazard such as drinking water catchments, flooding, coastal risk areas and land subject to strict development controls such as steep land may be included in a LEP Map.
- A LEP Map is not to be used for areas of scenic protection or aesthetic values.
- Land that has been verified to meet the criteria for an E2 or E3 zone where the primary use of the land is not environmental conservation or environmental management may be included in a mapped planning control, such as a Vegetation Map.

## Additional Considerations for Far North Coast Councils

### 13 Aesthetic values

- Councils on the Far North Coast will not be permitted to use scenic values as an attribute for the application of an E2 or E3 zone or mapped planning controls.

### 14 Permissibility of agriculture in E Zones

- *Extensive agriculture* is to be listed as permissible with consent in the E2 zone for all Far North Coast LEPs.
- *Extensive agriculture* is to be listed as permissible without consent in the E3 zone for all Far North Coast LEPs.

### 15 Coastal Zone Management

- Far North Coast councils are to use a Coastal Risk Map and associated clause to manage land affected by coastal hazards.

### 16 Section 117 Direction

- A Section 117 Ministerial Direction specific to applying E zones and mapped planning controls in Far North Coast LEPs will ensure the consistent application of the final recommendations of the Northern Councils E Zone Review for Ballina, Byron, Kyogle, Lismore and Tweed Local Government Areas.

## Statewide Implications

### 17 Existing Use Rights

- The Department will investigate the possibility of an amendment to the *Environmental Planning and Assessment Act 1979* or the *Environmental Planning and Assessment Regulation 2000*, to remove or extend the 12-month time limit for abandonment of existing uses for the land use *extensive agriculture*.

### 18 Implications for remainder of the State

- These recommendations will initially apply only to the five Far North Coast councils. However, in the meantime, if other councils in the State are reviewing the application of E zones, then the principles contained in these recommendations can be used. Councils should contact the Department of Planning and Environment for assistance.
- The Department of Planning and Environment will investigate the implications of the Northern Councils E Zone Review final recommendations on the application of E zones and mapped planning controls across the State.
- The Department will consider a revision of the Standard Instrument LEP template to remove 'aesthetic values' from the zone objectives of the E2 and E3 zones.

# Appendix 1

## 1.1 Rare, Endangered and Vulnerable Forest Ecosystems (JANIS vegetation types)

Map unit	Map unit name
22	Coast Cypress Pine (R)
45	Dunns White Gum (R)
61	Grey Box-Ironbark (R)
62	Grey Box-Northern Grey Gum (R)
66	Herbfield (R)
77	Mangrove (R)
115	Red Bloodwood (R)
125	Saltmarsh (R)
138	Steel Box (R)
143	Swamp Oak (R)
304	Dry Rainforest (E)
315	Horsetail Casuarina (R)
318	Coastal Swamp Box (R)
320	Sedgeland/Rushland (E)
21	Lowlands Grey Box (V)
46	Eastern Red Gums (V)
50	Wet Bangalow-Brushbox (V)
74	Lowlands Scribbly Gum (V)
76	Coastal Mallee (V)
100	Northern Grassy Sydney Blue Gum (V)
112	Paperbark (V)
120	River Oak (V)
122	Rough-barked Apples (V)

### **Rare or Endangered Forest Ecosystems**

(R) Rare ecosystems

(E) Endangered ecosystems

(V) Vulnerable ecosystems

The Map Unit reference relates to the map unit in the *Joint ANZEC/MCFFA National Forest Policy Statement Implementation sub-committee (JANIS)* (Commonwealth of Australia 1997)





Northern Councils E Zone Review Final Recommendations Report

October 2015

© Crown Copyright State of NSW through NSW Department of Planning and Environment

ISBN 978-1-76039-139-3

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright Notice: In keeping with the NSW Government's commitment to encourage the availability of information you are welcome to reproduce the material that appears in the Report for personal, in house or non commercial use without formal permission or charge. All other rights are reserved. If you wish to reproduce, alter, store or transmit material appearing in the Report for any other purpose, request for formal permission should be directed to: Director External Engagement, Department of Planning and Environment, GPO Box 39, Sydney 2001.