



New South Wales

# Warren Local Environmental Plan 2009

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (DUB0109523-1)

TONY KELLY, MLC  
Minister for Planning

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## **2009 No 633**

Clause 1            Warren Local Environmental Plan 2009

Part 1             Preliminary

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## **Warren Local Environmental Plan 2009**

under the

Environmental Planning and Assessment Act 1979

### **Part 1    Preliminary**

#### **1    Name of Plan**

This Plan is *Warren Local Environmental Plan 2009*.

#### **2    Commencement**

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

#### **3    Aims of Plan**

The aims of this Plan are:

- (a) to provide a more secure future for agriculture and to realise the economic potential of rural land within the Warren local government area within the principles of sustainable natural resource management, and
- (b) to encourage the proper management, development and conservation of natural and man-made resources within the Warren local government area by protecting, enhancing or conserving the following:
  - (i) agricultural land,
  - (ii) timber, minerals, soil, water and other natural resources,
  - (iii) the Ramsar-listed Macquarie Marshes Nature Reserve,
  - (iv) areas of significance for nature conservation,
  - (v) areas of high scenic or recreational value,
  - (vi) places and buildings of archaeological or heritage significance, including Aboriginal relics and places, and

- (c) to facilitate growth and development of the Warren local government area consistent with the aims set out in paragraphs (a) and (b) in a manner that:
  - (i) ensures that development is appropriately located having regard to environmental constraints, accessibility and existing land use patterns, and
  - (ii) provides for future long term urban development and protects the existing residential amenity of Warren, and
  - (iii) provides for the proper control and management of subdivision and other development, consistent with the other aims and objectives of this Plan, and
  - (iv) minimises the cost to the community of fragmented and isolated development of rural land, and
  - (v) promotes the economic, equitable and efficient delivery of amenities and services, and
  - (vi) promotes a range of residential and employment opportunities in accordance with demand, and
  - (vii) allows farm adjustments, and
  - (viii) ensures that the efficiency of arterial roads is not adversely affected by development on adjacent land, and
- (d) to protect the heritage of the Warren local government area by:
  - (i) conserving the environmental heritage of the land to which this Plan applies, and
  - (ii) integrating heritage conservation into the planning and development control processes, and
  - (iii) providing for public involvement in the conservation of the Warren local government area's environmental heritage, and
  - (iv) ensuring that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings, including archaeological sites and places of Aboriginal heritage significance, as well as streetscapes and landscapes and the distinctive character that they impart to the land to which this Plan applies, and
  - (v) allowing for the protection of places that have the potential to have heritage significance but are not identified as heritage items.

#### **4 Definitions**

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

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### 5    Notes

Notes included in this Plan do not form part of this Plan.

### 6    Maps

In this Plan, a reference to a map is a reference to a map deposited in the office of the Council.

### 7    Land to which Plan applies

This Plan applies to all land within the Warren local government area with the boundaries as indicated on the Map.

### 8    Relationship with other environmental planning instruments

- (1) This Plan repeals *Interim Development Order No 1—Shire of Warren* and any other local environmental plans and other deemed environmental planning instruments applying only to the land to which this Plan applies.
- (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.

### 9    Consent authority

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

### 10   Savings provision relating to pending development applications

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

### 11   Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
  - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or

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- (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
  - (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

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Clause 12          Warren Local Environmental Plan 2009

Part 2              Permitted and prohibited development

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## Part 2      Permitted and prohibited development

### 12      Subdivision generally

- (1) Land to which this Plan applies may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

**Note.** If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

### 13      Demolition requires consent

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

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

### 14      Zones indicated on the map

For the purposes of this Plan, land to which this Plan applies is in a zone specified below if the land is shown on the Map in the manner specified in relation to that zone:

Zone No 1 (a) Agriculture—coloured buff

Zone No 1 (b) Rural Small Holdings—coloured orange

Zone No 2 (a) Residential—coloured pink

Zone No 3 (a) General Business—coloured light blue

Zone No 4 (a) General Industrial—coloured purple

Zone No 5 (a) Institutions—coloured yellow

Zone No 5 (b) Utilities—coloured yellow with red hatching



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Zone No 6 (a) Public Open Space—coloured green

Zone No 8 (a) National Parks and Nature Reserves—coloured olive

### **15 Zone objectives and development controls**

- (1) The objectives and development controls for each zone are set out in clauses 17–25 of this Plan.
- (2) The objectives for each zone are set out under the heading “Zone objectives” appearing in the clause relating to the zone.
- (3) Except as otherwise provided by this Plan, in relation to land in a zone specified in clauses 17–25 of this Plan, the development (if any) that:
  - (a) may be carried out without development consent, and
  - (b) may be carried out only with development consent, and
  - (c) is prohibited,
 is specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the clause relating to the zone.
- (4) In clauses 17–25, a reference to a type of building or other thing is a reference to a development for the purposes of that type of building or other thing.
- (5) The development controls that are specific to development on land in each zone are set out in the clause relating to the zone.
- (6) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land in the zone.

### **16 Unzoned land**

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting 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.

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### 17    Zone No 1 (a) Agriculture

#### (1)    Zone objectives

The objectives of Zone No 1 (a) are to promote the proper management and utilisation of resources by:

- (a)    protecting, enhancing and conserving:
  - (i)    agricultural land in a manner that ensures the primary role of land within the zone is for efficient and effective agricultural pursuits, managed within sustainable natural resource management principles, and
  - (ii)   soil stability by controlling and locating development in accordance with soil capability, and
  - (iii)   forests of existing and potential commercial value for timber production, and
  - (iv)   valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits, and
  - (v)    trees and other vegetation where the conservation of the vegetation is significant to scenic amenity or natural wildlife habitat or is likely to control land degradation, and
  - (vi)   water resources in the public interest, and
  - (vii)   areas of local, state, national and international significance for nature conservation, including areas with rare plants, wetlands and significant habitat, and
  - (viii) places and buildings of archaeological or heritage significance, including the protection of Aboriginal relics and places, and
- (b)    identifying and protecting land that is environmentally sensitive and of environmental significance from adverse development impacts, in particular:
  - (i)    areas of biological diversity, remnant native vegetation (including grasslands), areas of significance for nature conservation and areas of habitat protection (including potential critical habitat for threatened species), and
  - (ii)   the Macquarie River and its associated effluent creeks, cowals, floodplain and wetland environments and the natural habitat they support for conservation purposes, and
  - (iii)   the water quality of streams, riparian areas, lakes and groundwater resources, and
- (c)    conserving and protecting the wetland values of the Macquarie Marshes by encouraging and managing surrounding land use and

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agricultural activities consistent with, though not limited to, the Irrigation Policy specified in the *Macquarie Marshes Water Management Plan 1996*, and

- (d) encouraging best management practices in relation to agriculture to minimise adverse impacts on environmentally sensitive land, and
  - (e) enhancing the economic value of land for agriculture by:
    - (i) facilitating farm adjustments and promoting consolidation and enlargement of holdings, and
    - (ii) protecting agricultural land from inefficiencies posed by a reduction of holding size and land use conflicts, and
    - (iii) permitting other primary production uses such as energy generation that complement the primary role of the zone, and
    - (iv) reducing the need for improvements to the provision of services above those required to service the existing rural community, and
  - (f) permitting rural industries that do not have a significant adverse impact on existing or potential agricultural production on adjoining land.
- (2) **Without development consent**
- Land within the Macquarie Marshes:  
Agriculture; forestry; home industries; home occupations.
- Land outside the Macquarie Marshes:  
Agriculture; artificial water bodies; cotton farming; forestry; home industries; home occupations; intensive agriculture; landforming.
- (3) **Only with development consent**
- Development not included in subclause (2) or (4).
- (4) **Prohibited**
- Land within Macquarie Marshes:  
Abattoirs; advertising structures; advertisements; animal cemeteries; animal boarding or training establishments; aquaculture; artificial water bodies; boarding houses; brothels; bulk fuel stores; bulky goods premises; business premises; caravan parks; cemeteries; child care centres; clubs; community facilities; correctional centres; cotton farming; depots; educational establishments; food and drink premises; funeral homes; health care professionals; health consulting rooms; heliports; home occupations (sex services); hospitals; hostels; hotel or motel accommodation; industries; intensive livestock keeping

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Clause 17            Warren Local Environmental Plan 2009

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establishments; junk yards; liquid fuel depots; machinery dealerships; medical centres; mining; motor showrooms; neighbourhood shops; offensive or hazardous industries; places of public worship; pubs; public administration buildings; recreation facilities; residential care facilities; residential flat buildings; restaurants; restricted premises; retail plant nurseries; rural industries; rural supplies; seniors housing; service stations; serviced apartments; sex service premises; shops; stock and sale yards; transport terminals; turf farming; vehicle body repair workshops; vehicle repair stations; warehouses; waste management facilities.

**Note.** Clause 28 also prohibits certain development within Macquarie Marshes.

Land outside the Macquarie Marshes:

Advertising structures; advertisements; animal cemeteries; boarding houses; brothels; bulky goods premises; business premises; caravan parks; cemeteries; child care centres; clubs; community facilities; depots; educational establishments; food and drink premises; funeral homes; health care professionals; health consulting rooms; home occupations (sex services); hospitals; hostels; hotel or motel accommodation; industries; junk yards; light industries; machinery dealerships; medical centres; motor showrooms; neighbourhood shops; offensive or hazardous industries; places of public worship; pubs; public administration buildings; recreation facilities; residential care facilities; residential flat buildings; restaurants; restricted premises; retail plant nurseries; rural supplies; service stations; serviced apartments; seniors housing; sex service premises; shops; transport terminals; vehicle body repair workshops; vehicle repair stations; warehouses; waste management facilities.

**Note.** The term *Macquarie Marshes* is defined in the Dictionary to this Plan.

### (5) General considerations for development

The consent authority may consent to development on land in Zone No 1 (a), only if it has taken into consideration the effect of that development on the following:

- (a) the present use of the land, the potential use of the land for the purposes of agriculture and the potential of the land for sustainable agricultural production,
- (b) vegetation, timber production, land capability, flood water behaviour and water resource availability and quality,
- (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive materials,

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- (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance including Aboriginal relics and places,
  - (e) whether adequate environmental safeguards and rehabilitation measures have been, or will be, made to protect the environment,
  - (f) the cumulative impact of development on the integrity of the environmental characteristics of the area, water resource management and native wildlife,
  - (g) the effect of the removal of agricultural land from production and potential for land use conflict,
  - (h) the cost of providing, extending and maintaining public amenities and services to the development,
  - (i) any proposals for future expansion of settlements in the locality.
- (6) Subclause (5) does not apply to development that is an addition to a building or work.
- (7) **Subdivision of land in Zone No 1 (a)**  
The consent authority must not consent to the subdivision of land in Zone No 1 (a) unless the consent authority is satisfied that:
- (a) the subdivision will not significantly reduce the agricultural capability of the land from which the proposed allotment is to be excised, and
  - (b) the use of the proposed allotment is not likely to cause a land use conflict in the area.
- (8) The consent authority must not consent to the subdivision of land in Zone No 1 (a) if the subdivision will create an allotment on which a dwelling is situated that has an area of less than 1,000 hectares.
- (9) Despite subclause (8), the consent authority may consent to the subdivision of land in Zone No 1 (a) to create an allotment on which a dwelling house is situated that has an area that is less than 1,000 hectares if:
- (a) the consent authority is satisfied that the allotment is to be used for the purpose of intensive agriculture or an intensive livestock keeping establishment and that use has been established, and
  - (b) the subdivision will not create an allotment on which a dwelling house is located that has an area of less than 40 hectares.
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Clause 17            Warren Local Environmental Plan 2009

Part 2                Permitted and prohibited development

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- (10) The consent authority must not consent to the subdivision of land under subclause (9) unless the consent authority is satisfied that:
- (a) the land has an adequate and lawful source of piped or impounded water for the proposed intensive agriculture or intensive livestock keeping establishment, and
  - (b) the subdivision will permit proper soil conservation management practices that will ensure the longterm suitability of any intensive agriculture or intensive livestock keeping establishment and encourage and maintain development consistent with the rural character of the area.

(11) **Dwelling houses in Zone No 1 (a)**

The consent authority may consent to the erection of a dwelling house on land in Zone No 1 (a) only if:

- (a) the consent authority is satisfied that:
  - (i) the proposed use of the land for the purpose of a dwelling house is in addition to the use of the land for the purpose of agriculture, and
  - (ii) the land is, or will be consolidated into, an allotment that has an area of not less than 1,000 hectares, and
  - (iii) there is no existing dwelling house on the allotment, or
- (b) the consent authority is satisfied that:
  - (i) the proposed use of the land for the purpose of a dwelling house is in addition to the use of the land for the purpose of intensive agriculture or an intensive livestock keeping establishment, and
  - (ii) the land is, or will be consolidated into, an allotment that has an area of not less than 40 hectares, and
  - (iii) there is no existing dwelling house on the allotment, or
- (c) the consent authority is satisfied that:
  - (i) the land is an allotment that was lawfully created under a previous planning instrument (being an allotment on which a dwelling house could have been lawfully erected immediately before the commencement of this Plan), and
  - (ii) there is no existing dwelling house on that allotment.

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- (12) The consent authority must not consent to the erection of a dwelling house on land in Zone No 1 (a) unless the consent authority is satisfied that the land has an adequate area suitable for the disposal of effluent on site.
- (13) **Dual occupancy**  
The consent authority must not consent to the erection of a dwelling house, or the alteration of an existing dwelling house, to create a dual occupancy unless the consent authority is satisfied that:
- (a) the land is, or will be consolidated into, an allotment that has an area of not less than 1,000 hectares, and
  - (b) the dwelling houses share a common access to a public road, if practicable, and
  - (c) the land has an adequate area suitable for the disposal of effluent on site.
- (14) **Setbacks for dwelling houses**  
The consent authority may consent to the erection of a dwelling house on land in Zone No 1 (a) only if the dwelling house is setback at least 150 metres from all allotment boundaries.
- (15) The consent authority may only consent to the erection of a dwelling house on land in Zone No 1 (a) only if the dwelling house is setback at least 150 metres from any land within Zone No 1 (b).
- (16) **Height above flood planning level for dwelling houses**  
The floor level of the proposed dwelling house must be at a height equivalent to or above the flood planning level.
- (17) **Development adjacent to rivers, creeks or watercourses**  
The consent authority must not consent to the erection of a dwelling house or other structure, or the alteration of an existing structure for the purpose of habitation, within 40 metres of the top of the bank of any river, creek or watercourse.
- (18) Effluent disposal systems, including the irrigation of effluent, are prohibited development within 40 metres of the top of the bank of any river, creek or watercourse.

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Clause 18            Warren Local Environmental Plan 2009

Part 2                Permitted and prohibited development

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### 18    Zone No 1 (b) Rural Small Holdings

#### (1)    Zone objectives

The objectives of this zone are:

- (a)    to facilitate small scale farming operations:
  - (i)    in accordance with the demonstrated need for that development, and
  - (ii)   in a manner that does not interfere with the efficient use of adjacent agricultural land, and
- (b)    to promote compatibility of land uses by providing a transition between urban land uses and large scale agricultural pursuits, and
- (c)    to ensure that the density of development carried out is compatible with land capability (including soil resources and soil stability), natural constraints and hazards of the land, and
- (d)    to conserve trees and other native vegetation where the conservation of the vegetation is significant to the riverine environment, scenic amenity or natural habitat or is likely to control land degradation, and
- (e)    to manage flood prone land so as to minimise the disruption and hazard of flooding to people and the environment and to allow for water distribution to and from flood dependent environments.

#### (2)    Without development consent

Agriculture; home occupations.

#### (3)    Only with development consent

Development not included in subclause (2) or (4).

#### (4)    Prohibited

Abattoirs; advertising structures; advertisements; aerodromes; boarding houses; bulk fuel stores; bulky goods premises; business premises; caravan parks (except where inside the Warren levee bank and serviceable by sewer); cemeteries; child care centres; clubs; correctional centres; cotton farming; educational establishments; farm stay accommodation; food and drink premises; funeral homes; health care professionals; health consulting rooms; helipads; heliports; home occupations (sex services); hospitals; hostels; hotel or motel accommodation; industries; intensive livestock keeping establishments; junk yards; liquid fuel depots; machinery dealerships; medical centres; motor showrooms; neighbourhood shops; offensive or hazardous industries; places of public worship; pubs; public administration buildings; recreation facilities; residential care facilities; residential flat buildings; restaurants; restricted premises; retail plant nurseries; rural



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supplies; sawmills; seniors housing; service stations; serviced apartments; sex services premises; shops; stock and sales yards; tourist facilities; vehicle body repair workshops; vehicle repair stations; warehouses; waste management facilities.

**(5) General considerations for development in Zone No 1 (b)**

The consent authority may consent to development on land in Zone No 1 (b) only if it has taken into consideration the effect of that development on:

- (a) vegetation, timber production, land capacity and water resources as well as the environmental characteristics, natural constraints and hazards (such as salinity, erosion and flooding) of the land, and
  - (b) areas of significance for nature conservation or of high scenic or recreational value, and
  - (c) places and buildings of archaeological or heritage significance including Aboriginal objects and places, and
  - (d) the cost of providing, extending and maintaining public amenities and services to the development, and
  - (e) the effect of the development on adjoining land and on other land in the vicinity.
- (6) Subclause (5) does not apply to development that comprises an addition to a building or work.

**(7) Subdivision of land in Zone No 1 (b)**

The consent authority may only consent to the subdivision of land in Zone No 1 (b) if each of the allotments to be created by the proposed subdivision will have a minimum area of 2 hectares and a minimum frontage to any river, creek or watercourse of 200 metres.

- (8) If an allotment to be created by a subdivision under subclause (7) is a “battleaxe” allotment, the area of the battleaxe “handle” must not be included in the calculation of the allotment area and the width of the “handle” must be a minimum of 6 metres.

**(9) Dwelling houses in Zone No 1 (b)**

The consent authority may only consent to the erection of a dwelling house on land in Zone No 1 (b) if:

- (a) the allotment on which the dwelling house is proposed to be erected is vacant and has an area not less than 2 hectares, and
- (b) the allotment on which the dwelling house is proposed to be erected has a legal and practical all weather access to a road, and

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Clause 19 Warren Local Environmental Plan 2009

Part 2 Permitted and prohibited development

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- (c) the erection of the dwelling house will not result in land use conflict.
- (10) The consent authority must not consent to the erection of a dwelling house under subclause (9) unless:
  - (a) the consent authority is satisfied that the land has an adequate area suitable for the disposal of effluent on site, and
  - (b) in the case of an allotment that has an area less than 4 hectares—an aerated effluent disposal system will be used, and
  - (c) the finished floor level of the proposed dwelling house is to be at a height equivalent to or above the flood planning level.
- (11) An effluent disposal system referred to in subclause (10) must not be located within 40 metres of the top of the bank of any river, creek or watercourse.
- (12) **Setbacks for dwelling houses**

The consent authority may consent to the erection of a dwelling house on land in Zone No 1 (b) only if the dwelling house is set back at least 20 metres from all allotment boundaries.
- (13) The consent authority may only consent to the erection of a dwelling house on an allotment that is adjacent to land in Zone No 1 (a) if the dwelling house is setback at least 150 metres from land within Zone No 1 (a).
- (14) **Development adjacent to rivers, creeks or watercourses**

The consent authority must not consent to the erection of a dwelling house or other structure, or the alteration of an existing structure for the purpose of habitation, within 40 metres of the top of the bank of any river, creek or watercourse.

### 19 Zone No 2 (a) Residential

- (1) **Zone objectives**

The objective of Zone No 2 (a) is to promote residential development in existing towns and villages in a manner that is compatible with their urban function.
- (2) **Without development consent**

Home occupations.
- (3) **Only with development consent**

Development not included in subclause (2) or (4).

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(4) **Prohibited**

Abattoirs; agriculture; animal cemeteries; animal boarding or training establishments; animal chillers; aquaculture; artificial water bodies; bulk fuel stores; bulky goods premises; business premises; cemeteries; clubs; correctional centres; cotton farming; depots; extractive industries; farmstay accommodation; farm buildings; forestry; funeral homes; generating works; heliports; helipads; home occupation (sex services); hotel or motel accommodation; industries; intensive agriculture; intensive livestock keeping establishments; junk yards; liquid fuel depots; machinery dealerships; mining; motor showrooms; offensive or hazardous industries; places of public worship; pubs; recreation facilities; restaurants; restricted premises; retail plant nurseries; rural industries; rural supplies; sawmills; service stations; sex services premises; shops; stock and sale yards; tourist facilities; transport terminals; turf farming; vehicle body repair workshops; vehicle repair stations; warehouses; waste management facilities.

(5) **Subdivision of land in Zone No 2 (a)**

The consent authority must not consent to the subdivision of land in Zone No 2 (a) to create an allotment to be used for the purpose of a dwelling house unless:

- (a) in the case of an allotment that is serviced by reticulated sewer and water—the allotment has an area of 500 square metres or more, or
- (b) in the case of an allotment that is not serviced by a reticulated sewer:
  - (i) the allotment has an area of at least 2,000 square metres, and
  - (ii) the consent authority is satisfied that the land has an adequate area suitable for the disposal of effluent.

(6) **Dual occupancy**

The consent authority may only consent to the erection of a second dwelling, or alteration of an existing dwelling house, on land in Zone No 2 (a) to create a dual occupancy if the consent authority is satisfied that the allotment is serviced by a reticulated sewer.

(7) **Height above flood planning level for development**

If the land is not protected by a levee system, the finished floor level of a dwelling house in Zone No 2 (a) must be at a height equivalent to or above the flood planning level.

## **2009 No 633**

Clause 20            Warren Local Environmental Plan 2009

Part 2                Permitted and prohibited development

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### **20    Zone No 3 (a) General Business**

#### **(1)    Zone objectives**

The objectives of Zone No 3 (a) are to promote the proper management, utilisation and conservation of buildings and land use within the business areas of Warren, Nevertire and Collie by:

- (a)    providing for a wide range of retailing activities, local businesses and other government services in the business area of Warren, and
- (b)    ensuring adequate provision of car parking facilities within the business area of Warren, and
- (c)    preserving the historic character of the business areas of Warren, Nevertire and Collie, and
- (d)    encouraging and directing new commercial and retail development within the business area of Warren.

#### **(2)    Without development consent**

Home occupations.

#### **(3)    Only with development consent**

Development not included in subclause (2) or (4).

#### **(4)    Prohibited**

Abattoirs; aerodromes; agriculture; animal cemeteries; animal boarding or training establishments; animal chillers; aquaculture; artificial water bodies; bulk fuel stores; cemeteries; correctional centres; cotton farming; extractive industries; farm buildings; farmstay accommodation; forestry; helipads; heliports; industries; intensive agriculture; intensive livestock keeping establishments; junk yards; landforming; mining; offensive or hazardous industries; rural industries; sawmills; sex service premises; stock and sale yards; turf farming; warehouses; waste management facilities.

### **21    Zone No 4 (a) General Industrial**

#### **(1)    Zone objectives**

The objectives of Zone No 4 (a) are:

- (a)    to provide fully serviced land that is suitable for a range of industrial and ancillary uses, and
- (b)    to ensure that industrial development is undertaken in an environmentally sustainable manner, and

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- (c) to locate land uses appropriately to ensure that they do not adversely impact on the built or the natural environment and are compatible with uses of adjoining land, and
    - (d) to encourage new industrial development which will generate employment and contribute to the needs of the area, and
    - (e) to enable the development of land for certain non-industrial purposes where the present or future industrial development of land within the zone will not be compromised.
  - (2) **Without development consent**  
Home occupations.
  - (3) **Only with development consent**  
Animal chillers; bulk fuel stores; clubs; business identification signs; correctional centres; depots; drainage; food and drink premises; funeral homes; generating works; helipads; heliports (at Warren airport); industries; junk yards; liquid fuel depots; machinery dealerships; public utility undertakings; roads; recreation areas; recreation facilities; retail plant nurseries; rural industries; rural supplies; sawmills; service stations; sex services premises; stock and sale yards; transport terminals; utility installations; vehicle body repair shops; warehouses; waste management facilities.
  - (4) **Prohibited**  
Development not included in subclause (2) or (3).
  - (5) **Subdivision of land in Zone No 4 (a)**  
The consent authority may only consent to the subdivision of land in Zone No 4 (a) to create an allotment if each allotment:
    - (a) is serviced by a reticulated sewer, and
    - (b) has an area of not less than 500 square metres.
  - (6) Despite subclause (5), the consent authority may consent to the subdivision of land in Zone No 4 (a) to create an allotment that is not serviced by a reticulated sewer if:
    - (a) the allotment has an area of at least 2,000 square metres, and
    - (b) the consent authority is satisfied that the land has an adequate area suitable for the disposal of effluent.
  - (7) **Specific controls for sex services premises**  
The consent authority may consent to development of land in Zone No 4 (a) for the purpose of a sex service premises only if the development:
    - (a) does not front, or have direct access from, a road, and
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Clause 22 Warren Local Environmental Plan 2009

Part 2 Permitted and prohibited development

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- (b) is located at least 200 metres from a residential or business zone, and
- (c) is located at least 200 metres from a school, recreation area or any other place where children are likely to congregate, and
- (d) is at least 50 metres from any dwelling house existing at the time that the relevant development application is made.

### 22 Zone No 5 (a) Institutions

(1) **Zone objective**

The objective of Zone No 5 (a) is to promote the proper management and utilisation of land for medical, educational, research and cultural facilities including hospitals, schools, colleges, universities, cemeteries and churches, by setting aside land required for the particular public or community land uses shown on the Map.

(2) **Without development consent**

Nil.

(3) **Only with development consent**

Any public or community land use shown on the Map in relation to the land.

(4) **Prohibited**

Development not included in subclause (2) or (3).

### 23 Zone No 5 (b) Utilities

(1) **Zone objective**

The objective of Zone No 5 (b) is to provide and protect land used by government and private sectors for the provision of urban infrastructure, including railways, telecommunications, drainage, electricity, gas, water and sewerage utilities by setting aside land required for the particular utility use as indicated on the Map.

(2) **Without development consent**

Nil.

(3) **Only with development consent**

Any public or community land use shown on the Map in relation to the land.

(4) **Prohibited**

Development not included in subclause (2) or (3).

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**24 Zone No 6 (a) Public Open Space****(1) Zone objectives**

The objective of Zone No 6 (a) is to identify and protect land that is, or should be, set aside as parks, reserves and other recreation areas for recreational purposes, by:

- (a) facilitating the improvement of the land for active or passive recreational purposes (or both), according to its neighbourhood, district or regional recreational use, and
- (b) allowing development of land for uses ancillary to recreational use where it does not detrimentally affect future recreational use or the amenity of surrounding localities, and
- (c) recognising the dual use of public utility corridors as links between active recreation areas, and
- (d) protecting and enhancing areas of native vegetation, and
- (e) providing for aesthetic improvements through horticulture.

**(2) Without development consent**

Recreation areas.

**(3) Only with development consent**

Artificial water bodies; recreation facilities; roads.

**(4) Prohibited**

Development not included in subclause (2) or (3).

**25 Zone No 8 (a) National Parks and Nature Reserves****(1) Zone objectives**

The objectives of this zone are:

- (a) to identify land that is reserved under the *National Parks and Wildlife Act 1974*, and
- (b) to allow for the management and appropriate use of that land as provided for in the *National Parks and Wildlife Act 1974*.

**(2) Without development consent**

Development authorised by the *National Parks and Wildlife Act 1974*.

**(3) Only with development consent**

Nil.

**(4) Prohibited**

Development not included in subclause (2) or (3).

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### **Part 3    Special provisions**

#### **26    Erection of replacement dwelling houses**

Despite any other provision of this Plan, development consent may be granted to the erection of a dwelling house to replace an existing habitable dwelling house, but only if the consent authority is satisfied that, prior to occupation of the new dwelling house, the existing dwelling house is to be:

- (a) demolished, or
- (b) altered so as to be no longer useable for the purposes of a dwelling.

#### **27    Flood prone land**

- (1) The objectives of this clause are:
  - (a) to maintain the existing flood regime and flow conveyance capacity, and
  - (b) to enable evacuation of land in a flood event, and
  - (c) to avoid significant adverse impacts on flood behaviour, and
  - (d) to avoid significant adverse effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and
  - (e) to limit uses to those compatible with flow conveyance function and flood hazard.
- (2) This clause applies to land that is at or below the water level of a 1 in 200 years ARI (average recurrent interval) (the level of the 1955 flood).
- (3) The consent authority may consent to development on land to which this clause applies only if the consent authority is satisfied that the development:
  - (a) will not adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
  - (b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment, and
  - (c) will enable evacuation of the land, and
  - (d) will not significantly detrimentally affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and



- 
- (e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community as a consequence of flooding, and
  - (f) if located in a floodway:
    - (i) is compatible within the flow conveyance function of the floodway, and
    - (ii) is compatible with the flood hazard within the floodway.
  - (4) In this clause:
 

**floodway** has the same meaning as in the *Floodplain Development Manual: the management of flood liable land* ISBN 0 7347 54760 (published in April 2005 by the Department).

## 28 Bush fire hazard reduction

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

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

## 29 Development in Prohibited Area and Buffer Area for Macquarie Marshes

- (1) Despite any other provision of this Plan, the consent authority must not consent to development for the purposes of artificial water bodies, cotton farming, intensive agriculture or landforming on land in the Prohibited Area.
- (2) Development for the purposes described in subclause (1) on land in the Buffer Area is designated development.
- (3) In this clause:
 

**Buffer Area** means the area shown as the buffer area on Sheet 5 of the Map.

**Prohibited Area** means the area shown as the prohibited area on Sheet 5 of the Map.

**Note.** Alterations or extensions to development referred to in this clause may require development consent unless the development is exempt or comply development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other environmental planning instrument.

## 30 Development adjacent to Warren levee bank

- (1) Despite any other provision of this Plan, development for any purpose must not, without the consent of the consent authority, be carried out on land in Zone No 1 (a), 1 (b), 2 (a) or 6 (a) that is within 3 metres of the Warren levee bank.

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Part 3 Special provisions

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- (2) In considering any application for development consent required by this clause, the consent authority must assess the effect of the proposed development on:
- (a) the stability and effectiveness of the levee, and
  - (b) access to the levee.

### 31 Heritage conservation

#### (1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Warren local government area, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

#### (2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) 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,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

**(3) When consent not required**

However, 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, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
  - (ii) would not adversely affect the significance of the heritage item, 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 a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

**(4) Effect on heritage significance**

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

**(5) Heritage impact assessment**

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
  - (b) within a heritage conservation area, or
  - (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would

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Clause 31 Warren Local Environmental Plan 2009

Part 3 Special provisions

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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 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) Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal 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, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

**(9) Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 1 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (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, even though development for that purpose would

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otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan 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 conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### **32 Stormwater drainage**

- (1) Disposing of stormwater into any river or creek is not permitted without development consent.
- (2) The consent authority may consent to development that will result in disposing stormwater into a river or creek only if the water will be subjected to measures, satisfactory to the consent authority, that are designed to reduce litter, suspended solids, nutrients and other substances that might adversely affect the river or creek.

### **33 Drainage of wetlands**

Drainage of wetlands is not permitted without development consent.

### **34 Public utility infrastructure**

- (1) Development consent must not be granted for development on land to which this Plan applies unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangement have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

### **35 Business identification signs**

- (1) Despite any other provision of this Plan, and except as provided by subclause (2), a person may erect a business identification sign on land to which the sign relates without the consent of the consent authority.

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Part 3                Special provisions

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- (2) The consent of the consent authority is required to erect a business identification if the sign is adjoining or adjacent to a heritage item.

### 36 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise the 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 to development on land in any zone for any temporary use for a maximum of 182 days (whether or not consecutive days) in any 12 month period.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use is necessary and reasonable for the economic use of the land pending its subsequent development in accordance with this Plan and other relevant environmental planning instruments, and
  - (b) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other relevant planning instruments, and
  - (c) the temporary use does not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (d) the temporary use and the location of 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
  - (e) at the end of the temporary use period, the use and any associated structures will be removed and the site will, as far is practicable, be restored to the condition in which it was before the commencement of the use.

### 37 Classification and reclassification of public land

- (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.

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- (2) The public land described in Part 1 or Part 2 of Schedule 2 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 2 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 2:
- (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 2, 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 2, 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.

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Warren Local Environmental Plan 2009

Schedule 1      Environmental Heritage

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### Schedule 1      Environmental Heritage

(Clause 31)

Heritage item	Location	Significance
Macquarie Marshes Nature Reserve	Land within the Macquarie Marshes shown as Zone 8 (a) National Parks and Nature Reserves on the Map	State



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## **Schedule 2      Classification and reclassification of public land**

(Clause 37)

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

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	Nil

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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Any trusts etc not discharged</b>
Nil	Nil	Nil

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

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	Nil

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## Dictionary

(Clause 4)

**abattoir** means a building or place used for the commercial slaughter of animals, whether or not animal by-products are processed, manufactured or distributed, and includes a knackery.

**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.

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

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

**aerodrome** has the meaning same meaning as in the *Civil Aviation Act 1988* of the Commonwealth.

**agriculture** means:

- (a) the production of crops or fodder, or
- (b) horticulture, including fruit, vegetable and flower crop production, or
- (c) the grazing of livestock (but not an intensive livestock keeping establishment), or
- (d) the keeping and breeding of livestock including poultry, pigs, other birds or bees,

for commercial purposes, but does not include a building, place or use elsewhere defined in this Plan.

**alter**, in relation to a heritage item, means make structural changes to the outside of the heritage item or make non structural changes to the detail, fabric, finish or appearance of the outside of the heritage item (not including the repair or maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item).

**animal boarding or training establishment** means a building or place used for the commercial boarding, breeding, keeping or training of animals and includes a riding school or veterinary clinic.

**animal cemetery** means a building or place used for the interment of deceased pets, including dogs, cats and other animals kept as domestic pets.

**animal chiller** means a commercial freezer or cool room for the purpose of storing kangaroos, pigs, goats and other wildlife that have been slaughtered for use in pet food or for human consumption.

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

**archaeological site** means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and

- (b) the location and nature of which is described in Schedule 1, and
- (c) that contains one or more relics.

**ARI (average recurrent interval)** means the average period between the recurrence of a storm event of a given rainfall intensity. The ARI represents a statistical probability.

**artificial water body** means any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, and includes any related land clearing, channel formation, water diversion or structure built for the purpose of storing or collecting water for irrigation and industrial uses and includes a natural water body altered for the purpose of storing or collecting water.

**bed and breakfast accommodation** means a dwelling that:

- (a) provides for the temporary accommodation of not more than 8 guests for commercial purposes, and
- (b) offers at least breakfast for guests, and
- (c) does not contain facilities in rooms for the preparation of meals by guests, and
- (d) is not used for the permanent or long term accommodation of any persons other than those, and the family of those, who operate and manage the facility and who would normally reside in the dwelling.

**best management practices in relation to agriculture** means a self-regulatory method of agricultural production that is accepted by the relevant industry and combines sound science and practical farm management to reduce the impact on the natural environment, neighbours, workers and the community.

**boarding house** means a building:

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

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

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

**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 does not include a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

**bulk fuel store** means a fixed or mobile structure used for the storage of 10,000 litres of fuel or more.

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Warren Local Environmental Plan 2009

Dictionary

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**bulky goods premises** means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such a size or weight as to require:

- (a) a large area for handling, display or storage, or
- (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,

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.

**bus depot** means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

**bus station** means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

**business 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 that does not include general advertising of products, goods or services.

**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 may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

**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.

**cemetery** means a building or place for the interment of deceased persons or their ashes.

**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 NSW Office of 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.

**club** means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the *Registered Clubs Act 1976* or entertainment is provided at the club.

**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*.

**cotton farming** means the use of land for the commercial growing of cotton.

**Council** means Warren Shire Council.

**correctional centre** means a correctional centre or correctional complex within the meaning of the *Crimes (Administration of Sentences) Act 1999*.

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

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Warren Local Environmental Plan 2009

Dictionary

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***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 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme).

***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 one dwelling.

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

- (a) a school or tertiary institution, whether or not accommodation for staff and students is provided and whether or not used for the purposes of gain, and
- (b) an art gallery or museum,

with ancillary facilities such as shops and restaurants.

***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.

***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 tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

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

***flood planning level*** means the water level of a 1 in 200 years ARI (average recurrent interval) flood event plus 450 millimetres.

***food and drink premises*** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, milk bars and pubs.

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**forestry** has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

**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) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, 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.

**funeral home** means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

**generating works** means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

**group home** means a dwelling that is a permanent group home or a transitional group home.

**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.

**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.

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

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**health consulting rooms** means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

**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 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.

**heritage conservation area** means an area of land the location and nature of which is described in Schedule 1, and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with the guidelines prepared by the Department 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, archaeological site, place of Aboriginal heritage significance or other 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 the impact.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object the location and nature of which is described in Schedule 1.

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

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

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including the children related to the carer or licensee) does not at any 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 carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or



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- (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, 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 notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), 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,

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

**home industry** means an industry carried on in a building (other than a dwelling house or a dwelling in a residential flat building) under the following circumstances:

- (a) the building does not occupy a floor space exceeding 100 square metres and is erected within the curtilage of the dwelling house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not:
  - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise, or
  - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

**home occupation** means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling 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, oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or

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- (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, a brothel or home occupation (sex services).

**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 notice, advertisement or sign, 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.

**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,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or and other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for a commercial purpose),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**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.

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**hotel or motel accommodation** means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 2007*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

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

**industry** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

**intensive agriculture** means:

- (a) the use of a site for cultivation predominantly by irrigation for fruit, fibre and vegetable crops, flower crops, pasture or fodder and includes plant propagation, plant breeding, ornamental floriculture, the operation of wholesale plant nurseries, turf farming and landscape horticulture, or
- (b) the commercial keeping or breeding (or both) of livestock that are substantially dependent on high quality forage produced from the land, such as horse studs or similar enterprises,

but does not include animal boarding or training establishments, artificial water bodies, aquaculture, cotton farming, intensive livestock keeping establishments or dairying.

**intensive livestock keeping establishment** means a building or place in which or upon which cattle, sheep, goats, poultry or other livestock are held for the purposes of nurturing by a feeding method other than natural grazing and includes:

- (a) feedlots,
- (b) dairies,
- (c) piggeries,
- (d) poultry farms, and
- (e) aquaculture,

but does not include any animal boarding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or temporary feeding during or as a result of drought, fire, flood or similar emergencies.

**junk yard** means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles or other scrap materials or goods used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery for the sale of parts.

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**landforming** means work which adjusts the natural formation of land and is associated with the agricultural use of the land, but does not include tilling or ploughing.

**light industry** means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do 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, oil or otherwise.

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

**machinery dealership** means a building or place used for the sale by retail or auction, the hire or the display of agricultural, earthmoving or road transport machinery and equipment as well as the ancillary sale of parts and accessories and the servicing and repair of such items.

**Macquarie Marshes** means the land shown on sheet 6 of the Map as the Macquarie Marshes Area.

**Note.** The land shown on that map is the land inundated by flooding from the following streams:

- (a) the section of the Macquarie River extending from Marebone Weir to the Ginghet Breakover, and its effluents and anabranches including Oxley Break, Bulgeraga Creek, Buckinguy Creek, Monkey Creek, the Bora Channel, the Ginghet, the Ginghet Breakover and Mullins Swamp,
- (b) the stream extending from Marebone Weir to Carinda, known in parts as Marebone Break, Bulgeraga Creek, Gum Cowal, Terrigal Creek, from Marebone Weir to its confluence with Mathaguy Creek.

**Macquarie Marshes Water Management Plan 1996** means the document of that name published, in August 1996, by the National Parks and Wildlife Service and the Department of Land and Water Conservation, ISBN 0 7310 7624 9.

**medical centre** means business premises 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, and may include the ancillary provision of other health services.

**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.

**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.

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**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are also sold or displayed there.

**neighbourhood shop** means retail premises used for the purposes of selling small daily convenience goods 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.

**offensive or hazardous industry** means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

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

**place of Aboriginal heritage significance** means an area of land shown on the 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 can (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.

**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.

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the 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.

**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 utility infrastructure** includes infrastructure for any of the following:

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

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**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department 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, Government Department, corporation, firm or authority carrying on the undertaking.

**recreation area** means:

- (a) a children's outdoor playground, or
- (b) an outdoor area used for sporting activities or sporting facilities, or
- (c) an outdoor area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, and which are provided by:
  - (i) a public authority, or
  - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground.

**recreation facility** means a building or place used for indoor recreation, such as a table tennis centre, squash court, swimming pool, gymnasium, health studio or bowling alley, whether used for the purpose of gain or not.

**relic** means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Warren local government area, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

**residential accommodation** means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

**residential care facility** means accommodation for seniors (people aged 55 years or more) 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,

not being a dwelling, hospital or psychiatric facility.

**residential flat building** means a building containing 3 or more dwellings.

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**restaurant** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises that may also provide, whether or not takeaway meals and beverages or entertainment are also provided.

**restricted premises** means business premises or retail 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 hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

**retail plant nursery** means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are also sold.

**retail premises** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

**road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

**road transport terminal** means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

**rural industry** means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**rural supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**sawmill** means a mill handling, cutting and processing timber from logs or baulks.

**seniors housing** means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

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 residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

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**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 tourist and visitor accommodation 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.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**shop** means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

**stock and sale yard** means a building or place used for the purpose of offering animals for sale and includes a public cattle market.

**the Act** means the *Environmental Planning and Assessment Act 1979*.

**the Map** means the map marked "Warren Local Environmental Plan 2009".

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments and bed and breakfast accommodation.

**tourist facility** means an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, food and drink premises, hotel or motel accommodation, house boat, marina, recreation area, recreation facilities, water sport facilities or a club used in conjunction with any such activities.

**transport terminal** means a building or place used as an aerodrome, bus depot, bus station or road transport terminal.

**turf farming** means the commercial cultivation of turf for sale and the removal of turf for that purpose.

**utility installation** means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a show-room.

**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 or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

**Warren levee bank** means the levee bank shown on sheet 3 of the Map.

**waste management facility** means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

**warehouse** means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

**wetlands** means any shallow body of water such as a marsh, billabong, swamp or sedgeland that is inundated cyclically, intermittently or permanently with water, and vegetated with wetland plant communities.