



New South Wales

Penrith Local Environmental Plan 2010

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows.
(SRW0000623/PC)

TONY KELLY, MLC
Minister for Planning

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Clause 1.1 Penrith Local Environmental Plan 2010

Part 1 Preliminary

Penrith Local Environmental Plan 2010

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1.1 Name of Plan

This Plan is *Penrith Local Environmental Plan 2010*.

1.1AA Commencement

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

1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Penrith in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement,
 - (b) to ensure development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes,
 - (c) to encourage development to be designed in a way that assists in reducing and adapting to the likely impacts of climate change,
 - (d) to protect the environmental values and heritage of Penrith, including places of historic, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,
 - (e) to provide for an urban environment that is active, attractive and safe for residents and visitors,
 - (f) to foster viable employment, transport, education and future investment opportunities that are suitable to the needs and skills of the residents and the workforce,

- (g) to protect views and vistas from main roads and other public vantage points,
- (h) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well being of its rural communities.

1.3 Land to which Plan applies

- (1) This Plan applies to the land identified on the Land Application Map.
- (1A) Despite subclause (1), this Plan does not apply to the land identified on the Land Application Map as "Deferred matter".

1.4 Definitions

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

1.5 Notes

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

1.6 Consent authority

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

1.7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

Note. The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to

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Clause 1.8 Penrith Local Environmental Plan 2010

Part 1 Preliminary

the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

1.8 Repeal of other local planning instruments applying to land

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

Note. The following local environmental plans are repealed under this provision:

Interim Development Order No 11—City of Penrith

Interim Development Order No 17—City of Penrith

Interim Development Order No 21—City of Penrith

Interim Development Order No 22—City of Penrith

Interim Development Order No 32—City of Penrith

Interim Development Order No 56—City of Penrith

Interim Development Order No 69—City of Penrith

Interim Development Order No 71—City of Penrith

Interim Development Order No 87—City of Penrith

Penrith Local Environmental Plan 1994 (Erskine Park Employment Area)

Penrith Local Environmental Plan 1996 (Industrial Land)

Penrith Local Environmental Plan 2002 (Villages of Mulgoa and Wallacia)

- (1A) *Sydney Regional Environmental Plan No 13—Mulgoa Valley* is repealed.

- (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.

1.8A Savings provision relating to 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.

Note. However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

1.9 Application of SEPPs

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:
 - State Environmental Planning Policy No 1—Development Standards*
 - State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* (clause 6 and Parts 3 and 4)
 - State Environmental Planning Policy No 60—Exempt and Complying Development*

1.9A 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
 - (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 2.1 Penrith Local Environmental Plan 2010

Part 2 Permitted or prohibited development

Part 2 Permitted or prohibited development

2.1 Land use zones

The land use zones under this Plan are as follows:

Rural Zones

RU1 Primary Production
RU2 Rural Landscape
RU4 Rural Small Holdings
RU5 Village

Residential Zones

R5 Large Lot Residential

Business Zones

B4 Mixed Use

Industrial Zones

IN1 General Industrial
IN2 Light Industrial

Special Purpose Zones

SP1 Special Activities
SP2 Infrastructure

Recreation Zones

RE1 Public Recreation
RE2 Private Recreation

Environment Protection Zones

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

Waterway Zones

W1 Natural Waterways
W2 Recreational Waterways

2.2 Zoning of land to which Plan applies

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

2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Land Use Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

Notes.

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

2.4 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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Clause 2.5 Penrith Local Environmental Plan 2010

Part 2 Permitted or prohibited development

2.5 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
 - (a) with consent, or
 - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

2.6 Subdivision—consent requirements

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, 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:
 - (i) additional lots or the opportunity for additional dwellings, or
 - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
 - (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.

2.6AA 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 an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

2.6BB 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 future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

Land Use Table

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

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

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

State Environmental Planning Policy (Infrastructure) 2007 (relating to public facilities such as those for air transport, correction, education, electricity generation, health services, ports, railways, roads, waste management and water supply systems)

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

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Clause 2.6BB Penrith Local Environmental Plan 2010

Part 2 Land Use Table

State Environmental Planning Policy (Rural Lands) 2008

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No 50—Canal Estate Development

State Environmental Planning Policy No 62—Sustainable Aquaculture

State Environmental Planning Policy No 64—Advertising and Signage

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To protect and enhance the existing agricultural landscape character of the land.
- To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.
- To preserve and improve natural resources through appropriate land management practices.

2 Permitted without consent

Extensive agriculture; Home occupations; Intensive plant agriculture

3 Permitted with consent

Agricultural produce industries; Agriculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home-based child care; Home businesses; Home industries; Information and education facilities; Mining; Roads; Roadside stalls; Rural supplies; Secondary dwellings; Stock and sale yards; Turf farming

4 Prohibited

Natural water-based aquaculture; Any other development not specified in item 2 or 3

Zone RU2 Rural Landscape

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To preserve and improve natural resources through appropriate land management practices.
- To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Agricultural produce industries; Agriculture; Building identification signs; Business identification signs; Cellar door premises; Cemeteries; Community facilities; Crematoria; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Forestry; Funeral chapels; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural supplies; Schools; Secondary dwellings; Stock and sale yards; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Hotel or motel accommodation; Natural water-based aquaculture; Serviced apartments; Any other development not specified in item 2 or 3

Zone RU4 Rural Small Holdings

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.

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Clause 2.6BB Penrith Local Environmental Plan 2010

Part 2 Land Use Table

- To maintain the rural and scenic character of the land.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are of a scale and nature that is compatible with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices.

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Agricultural produce industries; Agriculture; Building identification signs; Business identification signs; Cellar door premises; Cemeteries; Community facilities; Crematoria; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Home-based child care; Home businesses; Home industries; Horticulture; Information and education facilities; Places of public worship; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural supplies; Schools; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Feedlots; Hotel or motel accommodation; Natural water-based aquaculture; Restricted dairies; Serviced apartments; Any other development not specified in item 2 or 3

Zone RU5 Village

1 Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To provide limited housing development opportunities for existing and new residents, including an ageing population, where this is consistent with the other objectives of this zone.
- To ensure development is compatible with the role and character of the village, available infrastructure, services and facilities and with the environmental capabilities of the land.

2 Permitted without consent

Home occupations

3 Permitted with consent

Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Flood mitigation works; Funeral chapels; Health consulting rooms; Home-based child care; Home businesses; Home industries; Information and education facilities; Kiosks; Markets; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads; Schools; Secondary dwellings; Seniors housing; Sewage treatment plants; Shop top housing; Tourist and visitor accommodation

4 Prohibited

Serviced apartments; Any other development not specified in item 2 or 3

Zone R5 Large Lot Residential

1 Objectives of zone

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

2 Permitted without consent

Home occupations

3 Permitted with consent

Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Flood

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Clause 2.6BB Penrith Local Environmental Plan 2010

Part 2 Land Use Table

mitigation works; Home-based child care; Home businesses; Home industries; Information and education facilities; Places of public worship; Recreation areas; Residential care facilities; Roads; Schools; Secondary dwellings; Sewage treatment plants; Tourist and visitor accommodation

4 Prohibited

Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To create opportunities to improve public amenity.

2 Permitted without consent

Home occupations; Roads

3 Permitted with consent

Amusement centres; Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Home-based child care; Home businesses; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Mortuaries; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential care facilities; Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Serviced apartments; Sex services premises; Shop top housing; Signage; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

Zone IN1 General Industrial

1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To promote development that makes efficient use of industrial land.
- To permit facilities that serve the daily recreation and convenience needs of persons working in industrial areas.

2 Permitted without consent

Roads

3 Permitted with consent

Animal boarding or training establishments; Car parks; Depots; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Heavy industries; Industrial retail outlets; Landscape and garden supplies; Light industries; Neighbourhood shops; Recreation areas; Sawmill or log processing works; Self-storage units; Signage; Take away food and drink premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres

4 Prohibited

Any development not specified in item 2 or 3

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To promote development that makes efficient use of industrial land.

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Part 2 Land Use Table

2 Permitted without consent

Roads

3 Permitted with consent

Amusement centres; Car parks; Child care centres; Community facilities; Crematoria; Depots; Educational establishments; Electricity generating works; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Hotel or motel accommodation; Industrial retail outlets; Landscape and garden supplies; Light industries; Medical centres; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Resource recovery facilities; Self-storage units; Service stations; Signage; Timber and buildings supplies; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource transfer stations

4 Prohibited

Schools; Any other development not specified in item 2 or 3

Zone SP1 Special Activities

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

Zone SP2 Infrastructure

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Charter and tourism boating facilities; Community facilities; Environmental facilities; Environmental protection works; Information and education facilities; Jetties; Kiosks; Markets; Moorings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Water recreation structures

4 Prohibited

Retail premises; Any other development not specified in item 2 or 3

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Part 2 Land Use Table

Zone RE2 Private Recreation

1 Objectives of zone

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

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Community facilities; Environmental facilities; Environmental protection works; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants; Roads

4 Prohibited

Any development not specified in item 2 or 3

Zone E1 National Parks and Nature Reserves

1 Objectives of zone

- To enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

2 Permitted without consent

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

3 Permitted with consent

Nil

4 Prohibited

Any development not specified in item 2 or 3

Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect, manage, restore and enhance the ecology, hydrology and scenic values of riparian corridors and waterways, wetlands, groundwater resources, biodiversity corridors, areas of remnant indigenous vegetation and dependent ecosystems.
- To allow for low impact passive recreational and ancillary land uses that are consistent with the retention of the natural ecological significance.

2 Permitted without consent

Nil

3 Permitted with consent

Environmental facilities; Environmental protection works; Flood mitigation works; Recreation areas; Roads

4 Prohibited

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

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.

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Part 2 Land Use Table

- To preserve and improve natural resources through appropriate land management practices.

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Agriculture; Building identification signs; Business identification signs; Cemeteries; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Funeral chapels; Home-based child care; Home businesses; Information and education facilities; Recreation areas; Roads; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Aquaculture; Hotel or motel accommodation; Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Serviced apartments; Turf farming; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices.

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Flood mitigation works; Home-based child care; Home businesses; Information and education facilities; Places of public worship; Recreation areas; Roads; Schools; Secondary dwellings

4 Prohibited

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

Zone W1 Natural Waterways**1 Objectives of zone**

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

2 Permitted without consent

Nil

3 Permitted with consent

Environmental facilities; Environmental protection works; Flood mitigation works

4 Prohibited

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

Zone W2 Recreational Waterways**1 Objectives of zone**

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

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Part 2 Land Use Table

- To provide for sustainable fishing industries and recreational fishing.

2 Permitted without consent

Nil

3 Permitted with consent

Boat sheds; Charter and tourism boating facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Jetties; Kiosks; Marinas; Moorings; Recreation areas; Recreation facilities (outdoor); Water recreation structures

4 Prohibited

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

Part 3 Exempt and complying development

3.1 Exempt development

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

The section states that exempt development:

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

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Clause 3.2 Penrith Local Environmental Plan 2010

Part 3 Exempt and complying development

- (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.

- (6) A heading to an item in Schedule 2 is part of that Schedule.

3.2 Complying development

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*)), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this Part,is complying development.

Note. See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.

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

3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means any of the following:
- (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,

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Part 3 Exempt and complying development

- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*,
- (j1) land in Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone W1 Natural Waterways or Zone W2 Recreational Waterways,
- (j2) land shown as “Natural Resources sensitive land” on the Natural Resources Sensitivity Land Map,
- (j3) land that is, or is near, the river, or is in the riverine corridor, wetlands or conservation areas sub catchments, within the meaning of *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)*.

Part 4 Principal development standards

4.1 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,
 - (b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
 - (c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views,
 - (d) to regulate the density of development and ensure that there is not an unreasonable increase in the demand for public services or public facilities,
 - (e) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

4.2 Rural subdivision

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Rural Small Holdings,
 - (d) Zone RU6 Transition.
- (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.

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Clause 4.3 Penrith Local Environmental Plan 2010

Part 4 Principal development standards

(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.

(5) A dwelling cannot be erected on such a lot.

Note. A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

4.3 Height of buildings

(1) The objectives of this clause are as follows:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,
- (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,
- (d) to nominate heights that will provide a transition in built form and land use intensity.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

- (a) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- (b) to minimise the adverse impact of development on heritage conservation areas and heritage items,
- (c) to regulate density of development and generation of vehicular and pedestrian traffic.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

4.5 Calculation of floor space ratio and site area

(1) **Objectives**

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,

- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
 - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
 - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
 - (iii) require community land and public places to be dealt with separately.

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

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

(3) **Site area**

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

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

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

(4) **Exclusions from site area**

The following land must be excluded from the site area:

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

(5) **Strata subdivisions**

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

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Clause 4.5 Penrith Local Environmental Plan 2010

Part 4 Principal development standards

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

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

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

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

(8) **Existing buildings**

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

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

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

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

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

(11) **Definition**

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

4.6 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

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Part 4 Principal development standards

- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note.** When this Plan was made it did not include Zone RU3 Forestry or Zone RU6 Transition.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (c1) clause 6.6, 6.7 or 6.12.

Part 5 Miscellaneous provisions

5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Local road"	Council
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>
Zone E2 Environmental Conservation and marked "Regional open space"	The corporation constituted under section 8 of the Act

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

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Part 5 Miscellaneous provisions

5.2 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.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
 - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
 - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

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

5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on

the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
 - (b) land within the coastal zone, or
 - (c) land proposed to be developed for the purpose of sex services or restricted premises, or
 - (c1) land in Zone B4 Mixed Use.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

5.4 Controls relating to miscellaneous permissible uses

(1) Bed and breakfast accommodation

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(2) Home businesses

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 30 square metres of floor area.

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Clause 5.5 Penrith Local Environmental Plan 2010

Part 5 Miscellaneous provisions

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.

(4) **Industrial retail outlets**

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

- (a) 25% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
 - (b) 500 square metres,
- whichever is the lesser.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 50 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 200 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 20 square metres.

(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 10% of the total floor area of both the self-contained dwelling and the principal dwelling.

5.5 Development within the coastal zone

Not applicable.

5.6 Architectural roof features

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

5.7 Development below mean high water mark

Not applicable.

5.8 Conversion of fire alarms

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

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

5.9 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.
Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

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- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
 - (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
 - (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
 - (a) that is or forms part of a heritage item, or
 - (b) that is within a heritage conservation area.

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

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

5.10 Heritage conservation

Note. Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Penrith, and

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- (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 Council 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 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):

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- (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 5 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 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

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- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

5.11 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.

5.12 Infrastructure development and use of existing buildings of the Crown

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

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6.1 Earthworks

- (1) The objectives of this clause are as follows:
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
 - (b) to allow earthworks of a minor nature without separate development consent.
- (2) Development consent is required for earthworks unless:
 - (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or
 - (b) the work is ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters:
 - (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Note 1. The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

Note 2. *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)* requires development consent for the “Filling of land, including submerged aquatic land, by raising the ground level through disposal of spoil from any landfill method (such as mining, dredging or refuse dumping), whether or not to enable the construction of a road or the erection of buildings or pylons or any other structure, where filling exceeds 1 metre in depth, or an area of 100 square metres”.

6.2 Salinity

- (1) The objectives of this clause are as follows:
 - (a) to protect natural hydrological systems by minimising soil disturbance and ensuring appropriate land use management,
 - (b) to avoid the adverse effects of rising salinity on land, including damage to infrastructure and buildings, loss of productive agricultural land and other adverse environmental effects.
- (2) Development consent must not be granted to any development unless the consent authority has considered:
 - (a) whether or not the proposed development is likely to have an impact on salinity processes, and
 - (b) whether or not salinity is likely to have an impact on the proposed development, and
 - (c) appropriate measures that can be taken to avoid or reduce any undesirable effects that may result from the impacts referred to in paragraphs (a) and (b).

6.3 Flood planning

- (1) The objectives of this clause are as follows:
 - (a) to minimise the flood risk associated with the use of the land,
 - (b) to limit uses to those compatible with flow conveyance function and flood hazard,
 - (c) to manage uses to be compatible with flood risks,
 - (d) to enable safe and effective evacuation of land,
 - (e) to ensure the existing flood regime and flow conveyance capacity is not compromised,
 - (f) to avoid detrimental effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or waterways.
- (2) This clause applies to the following land:
 - (a) land shown as “Flood planning area” on the Flood Planning Land Map,
 - (b) other land at or below the flood planning level,
 - (c) land shown as “Flood Planning Land” on the Clause Application Map, generally being land surrounded by the flood planning area.
- (3) Development consent is required for any development on land to which this clause applies.

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- (4) Development consent must not be granted for development on land that is flood planning area or other land at or below the flood planning level unless the consent authority is satisfied that the development:
- (a) is compatible with the flood hazard of the land, and
 - (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and
 - (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and
 - (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and
 - (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or a reduction in the stability of river banks or waterways, and
 - (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and
 - (h) is consistent with any relevant floodplain risk management plan.
- (5) Development consent must not be granted for development on land shown as “Flood Planning Land” on the Clause Application Map, unless the consent authority is satisfied that the development will not adversely affect the safe and effective evacuation of the land and the surrounding area.
- (6) A word or expression used in this clause has the same meaning as it has in the NSW Government’s *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.
- (7) In this clause:
- flood planning area** means the land shown as “Flood planning area” on the Flood Planning Land Map.
- flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard.
- Flood Planning Land Map** means the Penrith Local Environmental Plan 2010 Flood Planning Land Map.

6.4 Development on natural resources sensitive land

- (1) The objectives of this clause are as follows:
 - (a) to protect, enhance and manage the ecological, hydrological, scientific, cultural and aesthetic values of biodiversity and wildlife habitat corridors, natural waterways and riparian land,
 - (b) to enhance connections between remnants of indigenous vegetation,
 - (c) to prevent the fragmentation and degradation of remnant vegetation,
 - (d) to ensure that clearing and other development is located and designed to avoid or minimise the impact on the ecological, hydrological, scientific, cultural and aesthetic values of biodiversity and wildlife habitat corridors, natural waterways and riparian land.
- (2) This clause applies to all land shown as “Natural Resources sensitive land” on the Natural Resources Sensitivity Land Map.
- (3) Development consent is required for the following on land to which this clause applies:
 - (a) the subdivision of land,
 - (b) earthworks (including removal of rock or other natural material or alteration of a natural waterway or drainage line),
 - (c) the carrying out of a work,
 - (d) clearing vegetation (including slashing or underscrubbing),
 - (e) irrigation with treated effluent.
- (4) Before deciding an application to carry out development mentioned in subclause (3), the consent authority must consider whether the development meets the objectives of this clause and such of the following as are relevant:
 - (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,
 - (b) the importance of the vegetation in that particular location to native fauna,
 - (c) the strategic importance of the land as part of a biodiversity corridor,
 - (d) the sensitivity of the land and the effect of clearing vegetation,
 - (e) the relative stability of the bed and banks of any waterway that may be affected by the development, whether on the site, upstream or downstream,

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- (f) the effect of the development on waterway health, including pollution of the waterway, a significant increase or decrease in the amount or velocity of runoff entering the waterway, or a significant increase in siltation of the waterway,
 - (g) the effect of the development on the functions of aquatic ecosystems (such as habitat and connectivity).
- (5) Development consent must not be granted to development mentioned in subclause (3) unless the consent authority is satisfied that:
- (a) the development is designed and will be located and managed to avoid any potential adverse environmental impact, or
 - (b) if a potential adverse environmental impact cannot be avoided, the development:
 - (i) is designed and located so as to have minimum adverse impact, and
 - (ii) incorporates effective measures to remedy or mitigate any adverse impact caused.

6.5 Protection of scenic character and landscape values

- (1) The objectives of this clause are as follows:
 - (a) to identify areas that have particular scenic value either from major roads, identified heritage items or other public places,
 - (b) to ensure development in these areas is located and designed to minimise its visual impact.
- (2) This clause applies to land identified as “Land with scenic and landscape values” on the Scenic and Landscape Values Map.
- (3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development from major roads, identified heritage items and other public places.

6.6 Servicing

- (1) The objective of this clause is to ensure that development of land to which this Plan applies reflects the availability of services.
- (2) Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that:
 - (a) the development will be connected to a reticulated water supply, if required by the consent authority, and

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- (b) the development will have adequate facilities for the removal and disposal of sewage, and
 - (c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and
 - (d) the need for public amenities or public services has been or will be met.
- (3) Subclause (4) applies to land in Zone RU5 Village or Zone R5 Large Lot Residential that is not connected to a reticulated sewerage system provided by Sydney Water or licensed by the Council or the Environment Protection Authority.
 - (4) Development consent must not be granted to a subdivision of land referred to in subclause (3) unless each resulting lot will have an area of at least 1 hectare.

6.7 Dwelling houses on certain land in Llandilo and Mulgoa

- (1) The objective of this clause is to ensure that minimum lot sizes are retained or achieved through lot consolidation for dwelling houses on certain land in Llandilo and Mulgoa consistent with surrounding lot sizes.
- (2) Development consent must not be granted for the erection of a dwelling on land shown as “2 Hectares for Dwelling House” on the Clause Application Map unless the land has an area of at least 2 hectares or comprises any of the following lots:
 - Lot 319, DP 2147, 319 Eighth Avenue, Llandilo,
 - Lot 2, DP 593786, 2 Fifth Avenue, Llandilo (subject to the provision of permanent vehicular access to the land),
 - Lot 25, DP 2147, 24 Fourth Avenue, Llandilo,
 - Lot 38A, DP 2147, 38A Fourth Avenue, Llandilo,
 - Lot 342, DP 707626, 34 Fourth Avenue, Llandilo,
 - Lot 187, DP 2147, 187 Sixth Avenue, Llandilo.
- (3) Development consent must not be granted for the erection of a dwelling on land shown as “10 Hectares for Dwelling House” on the Clause Application Map unless the land has an area of at least 10 hectares.
- (4) If 2 or more lots need to be consolidated to achieve a minimum area under subclause (2) or (3), a consolidation plan must be lodged before or at the time of applying for development consent for the construction of a dwelling.

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6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones

- (1) The objective of this clause is to ensure that effluent generated by dual occupancies or secondary dwellings is managed on site to protect waterways and the amenity of adjoining lots.
- (2) This clause applies to land in the following zones:
 - (a) RU1 Primary Production,
 - (b) RU2 Rural Landscape,
 - (c) RU4 Rural Small Holdings,
 - (d) E3 Environmental Management,
 - (e) E4 Environmental Living.
- (3) Development consent must not be granted for a dual occupancy on a lot to which this clause applies unless the lot has an area of at least 2 hectares.
- (4) Development consent must not be granted for a secondary dwelling on a lot to which this clause applies unless the lot has an area of at least 2 hectares or it can be demonstrated that the existing on-site effluent disposal system has sufficient capacity for the secondary dwelling.
- (5) Development consent must not be granted for the erection of more than 2 dwellings on a lot to which this clause applies.
- (6) Development consent must not be granted for the subdivision of a dual occupancy or a secondary dwelling on a lot to which this clause applies into a strata, company or community title.

6.9 Mulgoa Valley

- (1) The objectives of this clause are as follows:
 - (a) to establish specific planning controls for land in the Mulgoa Valley (*the valley*),
 - (b) to protect and enhance the rural landscape of the valley, including its agricultural qualities, cultural heritage values and the setting of the villages of Mulgoa and Wallacia,
 - (c) to ensure development in the valley (including rural living opportunities) protects and utilises its tourism and recreational potential and is consistent with conserving its rural and natural landscape, heritage and agricultural qualities,
 - (d) to ensure traffic generating development is suitably located so as not to adversely affect the safety, efficiency and rural character of roads, particularly Mulgoa Road.

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- (2) This clause applies to land shown as “Mulgoa Valley” on the Clause Application Map.
- (3) Before granting development consent for any purpose on land to which this clause applies, the consent authority must be satisfied of the following:
- (a) that any proposed building will not be located on a ridgetop and will not intrude into the skyline when viewed from a road or other public place,
 - (b) that the proposed development will not adversely affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of any heritage item in the valley,
 - (c) that the proposed form and siting of buildings, colours, landscaping and building materials are appropriate for the rural character of the valley,
 - (d) that the proposed development will not detract from the “Vistas of heritage items” specified on the Scenic and Landscape Values Map,
 - (e) that extensive areas of vegetation will not be cleared for the proposed development,
 - (f) that adequate provision has been made for the landscaping of the land to which the development relates and about whether any trees or other vegetation on the land should be preserved,
 - (g) that the agricultural viability of holdings and potential of the land will not be adversely affected,
 - (h) that Aboriginal and non-Aboriginal cultural heritage resources on the land will not be adversely affected,
 - (i) that the view from Mulgoa Road and the rural setting of the villages of Mulgoa and Wallacia will not be adversely affected,
 - (j) that the safety and efficiency of Mulgoa Road will not be adversely affected,
 - (k) that any upgrading required to maintain safety and efficiency will not detract from the present rural character of Mulgoa Road.
- (4) Before granting development consent for the subdivision of land to which this clause applies, the consent authority must be satisfied that consent for a building could be granted in accordance with subclause (3) on each lot proposed to be created.

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6.10 Villages of Mulgoa and Wallacia

- (1) The objectives of this clause are as follows:
 - (a) to establish specific planning controls for land in the villages of Mulgoa and Wallacia,
 - (b) to protect residential amenity by prescribing minimum dimensions for dual occupancy and the creation of new lots through subdivision.
- (2) This clause applies to land in the villages of Mulgoa and Wallacia, shown as “Mulgoa Wallacia Villages” on the Clause Application Map.
- (3) Despite any other provision of this Plan, development consent must not be granted for dual occupancy on land to which this clause applies unless the lot on which the development is to be constructed would have the minimum standards set out in the following Table:

Zone	Minimum standards
Any land not connected to a reticulated sewer (regardless of zone)	Minimum lot size—2 hectares
	Minimum lot width—30 metres
Land in Zone RU5 Village	Minimum area (attached dwellings)—650 square metres
	Minimum width (attached dwellings)—15 metres
	Minimum area (detached dwellings)—750 square metres
	Minimum width (detached dwellings)—15 metres
Land in Zone R5 Large Lot Residential	Minimum lot size—4000 square metres
	Minimum width—30 metres
Land in Zone E4 Environmental Living	Minimum lot size—2 hectares
	Minimum lot width—30 metres

- (4) Despite any other provision of this Plan, development consent must not be granted for the subdivision of land to which this clause applies unless all the lots to be created by the subdivision would have the minimum standards set out in the following Table:

Zone	Minimum area and dimensions
Land in Zone RU5 Village (shown as Area 1 on the Lot Size Map)	Regular lot: Minimum area—550 square metres Minimum width—15 metres Minimum depth—30 metres Internal lot: Minimum area—650 square metres Minimum width—18 metres Minimum depth—30 metres
Land in Zone RU5 Village (shown as Area 2 on the Lot Size Map)	Maximum density—1 lot per 2000 square metres Regular lot: Minimum area—550 square metres Minimum width—15 metres Minimum depth—30 metres Internal lot: Minimum area—650 square metres Minimum width—18 metres Minimum depth—30 metres
Land in Zone R5 Large Lot Residential	Minimum area—4000 square metres Minimum width—30 metres Minimum depth—75 metres
Land in Zone E4 Environmental Living	Minimum area—1 hectare Minimum width—30 metres Minimum depth—75 metres

Note. Minimum lot sizes are indicated on the Lot Size Map. Lots must meet standards for area, width and depth. Meeting the standards for just width and depth is not sufficient.

- (5) In this clause:

internal lot means a lot the only means of access to which is an access corridor (a hatchet shaped lot) or a right-of-carriageway over another lot.

6.11 Orchard Hills

- (1) The objectives of this clause are as follows:
- (a) to establish specific planning controls for land in Orchard Hills,

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- (b) to identify and protect the prime agricultural land of Orchard Hills and to encourage the continuation of the use of that land for agricultural purposes,
 - (c) to ensure that development does not compromise the agricultural or scenic qualities of Orchard Hills,
 - (d) to ensure that development is compatible with existing infrastructure,
 - (e) to promote Orchard Hills as a rural landscape buffer between the M4 Motorway and the various surrounding residential areas of Penrith.
- (2) Before granting development consent for development on land shown as “Orchard Hills” on the Clause Application Map and adjacent to or immediately opposite the M4 Motorway or The Northern Road, the consent authority must be satisfied that:
- (a) the external facade of any habitable room would not be exposed to an LA10 (18 hour) traffic noise level exceeding 63dB(a), or
 - (b) appropriate noise attenuation measures have been or will be carried out that will reduce the internal noise level to meet AS 3671—1989, *Acoustics—Road traffic noise intrusion—Building siting and construction*.
- (3) Despite any other provision of this Plan, development consent must not be granted for the erection of a building on land shown as “Orchard Hills” on the Clause Application Map and subject to flooding or in a watercourse unless the consent authority is satisfied that:
- (a) no practical alternative location exists for the proposed building, and
 - (b) the building is not likely to be threatened by flood flows, and
 - (c) the erection or use of the building will not divert flood flows or adversely affect drainage flows, and
 - (d) the erection or use of the building will not cause soil erosion.

6.12 Twin Creeks

- (1) The objectives of this clause are as follows:
- (a) to allow development that has a maximum of 285 rural or residential lots on the land to which this clause applies,
 - (b) to protect localities of Aboriginal archaeological significance,
 - (c) to protect land downstream from the development from further flooding as a result of additional stormwater run off from the development.

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- (2) This clause applies to land shown as “Twin Creeks” on the Clause Application Map.
 - (3) Despite any other provision of this Plan, the consent authority must not consent to the subdivision of land to which this clause applies unless it is satisfied that:
 - (a) no more than 54 lots will be created within Area 3 shown on the Lot Size Map, each with an area of not less than 1,500 square metres, and
 - (b) the development will be compatible with the environmental capabilities of the land, and
 - (c) all lots created by the development will be compatible in size and shape with the physical nature of the land, adjoining land uses and the likely use of the land in the future, and
 - (d) the size and layout of lots that have boundaries with rural properties consider the interface between the rural residential estate and the potential for land use conflict, and
 - (e) the scientific, cultural or aesthetic significance of any Aboriginal archaeological site will not be detrimentally affected by the development, and
 - (f) dwellings located on land to which this clause applies will be sited to minimise any adverse impact that might arise from potential extractive industry situated to the south and west of the land, and
 - (g) the last 45 of the lots mentioned in subclause (a) will not be developed unless adequate community facilities are in place.
 - (4) Despite any other provision of this Plan, development consent must not be granted for a dual occupancy on a lot to which this clause applies.

6.13 Waterside Corporate

- (1) The objectives of this clause are as follows:
 - (a) to provide an acoustic, physical and visual buffer between industrial and residential development,
 - (b) to require a built form that protects the amenity (particularly with respect to noise) of residential development on the land to which this clause applies.
- (2) This clause applies to land shown as “Waterside Corporate” on the Clause Application Map.

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- (3) Despite any other provision of this Plan, the consent authority must not consent to development on land to which this clause applies unless the consent authority is satisfied that the carrying out of that development will not, because of activities in the proposed development, generate any increase in existing background noise levels.
- (4) The consent authority must not consent to development on land to which this clause applies unless the consent authority is satisfied that the noise levels inside the buildings involved in the development will not exceed the noise level criterion shown in the following Table:

Noise descriptor	Time period	Criterion
Sleeping areas 10% of L_{A1}	10:00 pm to 7:00 am	60dBA

- (5) In this clause:
10% of L_{A1} means the noise level that is exceeded by 10% of all the valid $L_{A1\ 15\ min}$ noise levels in the specified time period.

6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport

- (1) The objective of this clause is to ensure that development in the vicinity of the proposed Badgery's Creek airport site:
 - (a) has regard to the use or potential future use of the site as an airport, and
 - (b) does not hinder or have any other adverse impact on the development or operation of the airport on that site.
- (2) Development consent is required for the erection of a building on land where the ANEF exceeds 20 if it is erected for residential purposes or for any other purpose involving regular human occupation.
- (3) Development consent must not be granted to the following unless it meets the requirements of AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* with respect to interior noise levels:
 - (a) residential accommodation on land where the ANEF exceeds 20,
 - (b) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 25.
- (4) Development consent must not be granted to the following:
 - (a) development, on land where the ANEF exceeds 20, for the purposes of educational establishments, hospitals or places of public worship,

- (b) development, on land where the ANEF exceeds 25, for the purposes of dwellings (other than development consisting of the alteration, extension or replacement of an existing dwelling house where the development is consistent with the objectives of this clause),
 - (c) development, on land where the ANEF exceeds 30, for the purposes of business premises, entertainment facilities, office premises, public administration buildings, retail premises or tourist and visitor accommodation.
- (5) Development consent must not be granted to development for the purposes of a putrescible waste landfill, or any other purpose that may attract large numbers of birds, on land to which this clause applies.
- (6) In this clause:
- ANEF* means an Australian Noise Exposure Forecast contour line shown on the map in Appendix U of the draft environmental impact statement for the Second Sydney Airport, copies of which are deposited in the office of the Council and of the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government.

6.15 Location of sex services premises and restricted premises

- (1) The objective of this clause is to ensure that sex services premises and restricted premises are not visually prominent from public places or other locations regularly frequented by children.
- (2) Development consent must not be granted to development for the purposes of sex services premises or restricted premises if the premises would be located on land that adjoins land, or is separated only by a road from land:
 - (a) in Zone R5 Large Lot Residential or Zone RE1 Public Recreation, or
 - (b) that is used for community, school (including pre-school and child care centres), church or children's sporting or recreational activities, or
 - (c) that is used for sex services premises or restricted premises.
- (3) Development consent must not be granted to development for the purposes of sex services premises or restricted premises located in a mixed use development that contains a dwelling unless the consent authority is satisfied that the primary entrance of the premises is not on the same floor as the dwelling or any other place regularly frequented by children for recreational or cultural activities.

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Part 6 Additional local provisions

- (4) In deciding whether to grant consent for the purposes of sex services premises or restricted premises, the consent authority must take into account the impact the proposed development would have on any place that is regularly frequented by children for educational, recreational or cultural activities that adjoins or is in view of the proposed development.

Schedule 1 Additional permitted uses

(Clause 2.5)

1 Use of certain land at Andrews Road, Cranebrook

- (1) This clause applies to land at Andrews Road, Cranebrook shown as “Waterside Corporate” on the Clause Application Map.
- (2) Development for the purposes of a restaurant is permitted with consent.

2 Use of certain land at 707–711 Mamre Road, Kemps Creek

- (1) This clause applies to land at 707–711 Mamre Road, Kemps Creek, being Lot X, DP 421633.
- (2) Development for the purposes of rural supplies, with a maximum floor area of 950m², is permitted with consent.
- (3) Development for the purposes of landscape and garden supplies, with a growing and propagation area not exceeding 1600m², is permitted with consent.

3 Use of certain land at 1216–1224 Mulgoa Road, 4–12 Allan Road and 26 The Straight Road, Mulgoa

- (1) This clause applies to land at 1216–1224 Mulgoa Road, 4–12 Allan Road and 26 The Straight Road, Mulgoa, being Lot 4, DP 739622, Lots 10, 11, 12 and 14, DP 23069 and Lots 101 and 102, DP 850809.
- (2) Development for the purposes of advertisements, business premises, food and drink premises, medical centres, office premises, pubs, registered clubs, retail premises, service stations and vehicle repair stations is permitted with consent.

4 Use of certain land at Mulgoa Road, Penrith

- (1) This clause applies to land at Mulgoa Road, Penrith shown as “Schedule 1 applies” on the Clause Application Map.
- (2) Development for the purposes of bulky goods premises is permitted with consent.

5 Use of certain land at corner of Forrester Road and Boronia Road, St Marys

- (1) This clause applies to land at the corner of Forrester Road and Boronia Road, St Marys, being Lot 1, DP 541967 and Lots 21 and 22, DP 624086.
- (2) Development for the purposes of bulky goods premises is permitted with consent on the part of the land in Zone IN2 Light Industrial.

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Schedule 1 Additional permitted uses

- (3) Development for the purposes of amusement centres, child care centres, food and drink premises, hotel or motel accommodation and a registered club and associated car parking is permitted with consent on the part of the land in Zone RE2 Private Recreation.

6 Use of certain land at 1590–1594 Mulgoa Road, 1 Park Road and 11 Park Road, Wallacia

- (1) This clause applies to land at 1590–1594 Mulgoa Road, 1 Park Road and 11 Park Road, Wallacia, being Lot A, DP 334601, Lots 1, 2 and 3, DP 504928, Lots E, F and G, DP 390228 and Lot 3, DP 213444.
- (2) Development for the purposes of advertisements, business premises, food and drink premises, medical centres, office premises, pubs, registered clubs, retail premises, service stations and vehicle repair stations is permitted with consent.

7 Use of certain land at 51–55 Salisbury Avenue and 1451–1473 Elizabeth Drive, Kemps Creek

- (1) This clause applies to land at 51–55 Salisbury Avenue and 1451–1473 Elizabeth Drive, Kemps Creek, being Lots 5–9, Sec A, DP 2566, Lots 110–112, DP 1137261 and Lot B, DP 415712.
- (2) Development for the purposes of child care centres, kiosks, markets, neighbourhood shops, recreation facilities (indoor) and restaurants is permitted with consent.

8 Use of certain land at 486–490 Londonderry Road, 519–521 Londonderry Road and 355–357 Carrington Road, Londonderry

- (1) This clause applies to land at 486–490 Londonderry Road, Londonderry, being that part of Lot 1, DP 17242 zoned RU5 Village, land at 519–521 Londonderry Road, Londonderry being Lot 6, DP 17634 and land at 355–357 Carrington Road, Londonderry, being Lots 1 and 2, DP 604617.
- (2) Development for the purposes of advertisements, business premises, food and drink premises, medical centres, office premises, pubs, registered clubs, retail premises, service stations and vehicle repair stations is permitted with consent.

9 Use of certain land at 3025–3035 The Northern Road, Luddenham

- (1) This clause applies to land at 3025–3035 The Northern Road, Luddenham, being Part Lot 19, DP 1655.
- (2) Development for the purposes of advertisements, business premises, food and drink premises, medical centres, office premises, pubs, registered clubs, retail premises, service stations and vehicle repair stations is permitted with consent.

10 Use of certain land at 16–23 Clifton Avenue, Kemps Creek

- (1) This clause applies to land at 16–23 Clifton Avenue, Kemps Creek, being Lot 230, DP1134016.
- (2) Development for the purposes of extractive industry and waste disposal facilities is permitted with consent.

11 Use of certain land at 261 Mulgoa Road, Jamisontown

- (1) This clause applies to land at 261 Mulgoa Road, being Lot 1, DP 884114.
- (2) Development for the purposes of a restaurant is permitted with consent.

12 Use of certain land at 126–164 Castle Road, Orchard Hills

- (1) This clause applies to land at 126–164 Castle Road, Orchard Hills, being Lot 1, DP 239091.
- (2) Development for the purposes of subdivision is permitted with consent, but only if:
 - (a) the land is subdivided in accordance with the approved 9 lot subdivision (DA 02/0230), creating 8 lots with areas ranging from 5,000 square metres to 1.26 hectares and one residue lot of 13.48 hectares, or
 - (b) the land is subdivided into lots with a minimum area of 2 hectares.

13 Use of certain land at 19–105 Capitol Hill Drive, Mt Vernon

- (1) This clause applies to land at 19–105 Capitol Hill Drive, Mt Vernon, being Lot 166, DP803478, Lot 1672, DP855001 and Lot 4132, DP 857093.
- (2) Development for the purposes of agriculture is permitted with consent.

14 Use of certain land known as Twin Creeks, at Luddenham

- (1) This clause applies to land known as Twin Creeks in Zone E4 Environmental Living, at Luddenham.
- (2) Development for the purposes of hotel and motel accommodation, neighbourhood shops and recreation facilities (outdoor) is permitted with consent.
- (3) Strata subdivision of the approved resort development is also permitted with consent.

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Schedule 2 Exempt development

Schedule 2 Exempt development

(Clause 3.1)

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

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

Filming

- (1) **Note.** Provision repealed under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) May only be carried out on land:
 - (a) on which there is a heritage item, or
 - (b) within a heritage conservation area, or
 - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,if the filming does not involve or result in any of the following:
 - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
 - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
 - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
 - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.
- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.

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- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
 - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
 - (c) the proposed location of the filming,
 - (d) the proposed commencement and completion dates for the filming at the location,
 - (e) the proposed daily length of filming at the location,
 - (f) the number of persons to be involved in the filming,
 - (g) details of any temporary structures (for example, tents or marquees) to be erected or used at the location for the purposes of the filming,
 - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
 - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
 - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
 - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
 - (l) a copy of the public liability insurance policy that covers the filming at the location,
 - (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
 - (i) an approval by the Roads and Traffic Authority for the closure of a road,
 - (ii) an approval by the Council for the erection or use of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,

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- (iii) an approval by the Environment Protection Authority for an open fire,
 - (iv) an approval by the NSW Police Force for the discharge of firearms,
 - (v) an approval by the Land and Property Management Authority for the use of Crown land,
- (n) details of any temporary alteration or addition to any building or work at the location for the purposes of the filming.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
 - (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
 - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
 - (c) the proposed commencement and completion dates for the filming at the location,
 - (d) the proposed daily length of filming at the location.

Signage (building identification signs)

- (1) Maximum area—30m² or one-third of the length of the building elevation that faces the street, whichever is the lesser.
- (2) Must relate to the street number and name of the building.
- (3) Must be structurally stable.
- (4) Must be located above the main entrance of the building or, if the main entrance is not visible from the street, located on the main elevation that faces the street.
- (5) Must not include logo or product advertising.
- (6) Must not be flashing.
- (7) Must not be illuminated in rural or environmental zones.
- (8) Only 1 sign per building.

Signage (business identification signs)

- (1) Must be structurally stable.

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- (2) Must not impede pedestrian access or be a traffic hazard.
 - (3) Must not include logo or product advertising.
 - (4) If in a rural or environmental zone or in Zone R5 Large Lot Residential:
 - (a) must not be a home business, and
 - (b) maximum area of sign—1.5m², and
 - (c) must specifically relate to an authorised use conducted on the property.
 - (5) If in Zone B4 Mixed Use, each business may display one of each of the following:
 - (a) a fascia sign,
 - (b) a top hamper sign that does not extend below the level of the head of the window or above the wall to which it is attached,
 - (c) an under awning (non-flashing) sign erected at right angles to the face of the building and not extending closer than 0.6m from the kerb.
 - (6) If in an industrial zone:
 - (a) maximum area—5m², and
 - (b) maximum height—5m, and
 - (c) must be flush mounted to a wall or fascia not covering the glazed areas or awning, and
 - (d) must complement the building identification sign, if any.

Signage (real estate 'For Sale' or 'For Lease' signs)

- (1) The double sided or 'V' sign must not exceed 4.5m² in area per sign face.
- (2) Must be structurally stable.
- (3) Only 2 signs per property.
- (4) Must be removed within 14 days of the property being sold or let.

Signage (sports grounds)

- (1) Must be structurally stable.
- (2) If sponsorship advertising, must not be visible from outside the grounds.

Signage (temporary for the opening or closing of a business)

- (1) Must be structurally stable.

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- (2) Only 1 per business to advertise that a business:
 - (a) is opening, closing or about to open or close, or
 - (b) exists and is having a retail sale to the public which is an authorised use for the property.
- (3) Must not be placed on or above landscaped or car parking areas.
- (4) May be in the form of an inflatable structure such as a balloon or blimp.
- (5) Must not be displayed earlier than 28 days before the event is to take place and must be removed within 14 days after the event.

Signage (temporary for the purpose of advertising a community event, other than by or on behalf of a public authority)

- (1) Must be structurally stable.
- (2) Must relate specifically to a local event that is of a religious, educational, cultural, political, social or recreational character.
- (3) Must not include any advertising of a commercial nature.
- (4) Must not be displayed earlier than 28 days before the event is to take place and must be removed within 14 days after the event.

Tennis courts (for private use on a rural zoned property and associated with a dwelling house)

- (1) Minimum site area—1ha.
- (2) Maximum height of fencing—5m.
- (3) Fencing must be black or green cyclone mesh.
- (4) Must be located behind the building line to any street frontage.
- (5) Minimum setback from other property boundaries—10m.
- (6) Must not be lit.
- (7) Only 1 per property.
- (8) Must not interfere with any approved on-site effluent treatment disposal systems.
- (9) Maximum excavation or filling—800mm.
- (10) Fill must not be imported to level the site.
- (11) Drainage must be disposed of to the existing property's rainwater drainage system.
- (12) All earthworks must be adequately retained or battered.

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- (13) Screen landscaping must be planted between the court and property boundaries.

Tents or marquees used solely for filming purposes

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m².
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
- (a) 1 exit if the floor area of the tent or marquee does not exceed 25m²,
 - (b) 2 exits in any other case.
- (5) Width of each exit must be at least:
- (a) 800mm if the floor area of the tent or marquee is less than 150m², or
 - (b) 1m in any other case.
- (6) Height of the walls must not exceed:
- (a) 4m if erected on private land, or
 - (b) 5m in any other case.
- (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
- (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
- (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
 - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
 - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
- (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

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Schedule 2 Exempt development

Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes

- (1) May only be erected, used, altered or added to in connection with filming that is exempt development.
- (2) Temporary structure must not be at the location for more than 30 days within a 12-month period.
- (3) Alteration or addition to the building or work must not remain in place for more than 30 days within a 12-month period.
- (4) Temporary structure, or building or work in its altered or added to form, must not be accessible to the public.

Truck parking areas (in Zones RU1, RU2, RU4, E3 and E4)

- (1) Must be for a maximum of 2 trucks per property.
- (2) May also be for associated plant transported by the trucks.
- (3) Must be for trucks and associated plant owned or operated by the occupier of the property.
- (4) Must not include the construction of a shed or earthworks to create the parking area.
- (5) Must be at least 5m from each property boundary.
- (6) Maximum area for parking and manoeuvring (excluding driveway)—200m² (to facilitate parking and manoeuvring in accordance with AS 2890.2—2002, *Parking facilities—Off-street commercial vehicle facilities*).
- (7) Must connect to vehicular entrance via a sealed driveway.
- (8) Must be screened from view from adjoining properties.
- (9) Must not interfere with the functioning of existing drainage fixtures or flow paths or be located to obstruct, prevent use of or reduce the effective operation of any existing facilities, services or development on the site (such as on-site effluent disposal).
- (10) Must not require the removal of any tree or native vegetation, unless that removal is undertaken in accordance with a permit or development consent.

Schedule 3 Complying development

(Clause 3.2)

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

Part 1 Types of development

Demolition or removal of dwelling houses or ancillary development (in Zones E3 and E4)

- (1) **Application and general**
 - (a) Must be carried out in accordance with AS 2601—2001, *The demolition of structures*.
 - (b) Must be completed in accordance with the requirements of the WorkCover Authority.
 - (c) Maximum height of structure to be demolished—2 storeys above ground level (existing).
 - (d) Must not be a heritage item or a building in a heritage conservation area.
 - (e) All services must be suitably disconnected and capped off or sealed.
- (2) **Asbestos**
 - (a) The removal of asbestos material must be carried out by a licensed asbestos removal contractor.
 - (b) All asbestos laden waste must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos waste.
- (3) **Dust control**

Dust suppression techniques must be used to reduce any potential nuisance to surrounding properties.
- (4) **Waste management**

A waste management plan including details of the proposed locations for the disposal of all excavated material and waste from the site must be prepared.

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Schedule 3 Complying development

(5) Noise

Demolition works to be restricted to the hours permitted in accordance with the NSW Government's *Interim Construction Noise Guideline* published in July 2009.

Dwelling houses (in Zone RU5 Village)

(1) Application and general

- (a) Must be the erection of a new dwelling house.
- (b) Minimum lot size—500m².
- (c) Only 1 dwelling house per property.
- (d) Must not be a moveable dwelling.
- (e) Must not be on land to which clause 6.3 applies.
- (f) Must not require the removal of a tree or native vegetation.
- (g) Must not include a basement or roof terrace.

(2) Bulk and scale

- (a) Maximum height of floor above ground level (existing)—600mm.
- (b) Maximum height of wall above ground level (existing)—3.3m for a single storey dwelling house, or 6.5m for a two storey dwelling house.
- (c) Maximum overall height at any point above ground level (existing)—8m for a single storey dwelling house, or 9m for a two storey dwelling house.
- (d) Roof pitch must be between 17 and 30 degrees (excluding skillions for attached verandahs etc).
- (e) If a two storey dwelling house:
 - (i) maximum wall length between corners, articulations, verandahs or awnings—10m, and
 - (ii) must be designed as a combination of 1 and 2 storey elements with a variation in setbacks from both side boundaries, and
 - (iii) must not reduce the sunlight available to the living areas and private open space of any adjoining dwelling to less than 3 hours between 9am and 3pm on 21 June in any year.

(3) Setbacks and siting

- (a) Minimum setback from primary street frontage—5.5m or the average of adjoining properties, whichever is the greater.

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- (b) Minimum setback from any secondary street frontage—3m for a single storey dwelling house or 3.5m for a two storey dwelling house (except garage entrances which must be setback 5.5m).
 - (c) Minimum setback from rear property boundary—4m for a single storey dwelling house or 6m for a two storey dwelling house.
 - (d) Minimum setback from other property boundaries—1m.
 - (e) Minimum setback for eaves and gutters—675mm.
 - (f) Must not be constructed in a registered easement.
 - (g) Must not be constructed within 3m of a sewer or water main without approval of the relevant authority.
- (4) **Design and finishes**
- (a) Building facades facing any street frontage must be designed to address the frontage and incorporate elements such as wall articulation, windows, verandahs and roof variation.
 - (b) Garages must be integrated in the building facade and be setback further than the dwelling house.
 - (c) Garages facing public streets must not exceed 50% of the facade width or 6.3m in width, whichever is the lesser.
 - (d) The entry and at least one principal living room must be visible from the street.
 - (e) External building materials must have a non-reflective finish and be in neutral earthy tones consistent with the setting and compatible with surrounding development.
 - (f) Projecting roofs, awnings or verandahs must be incorporated to accentuate articulation.
- (5) **Site works**
- (a) Maximum excavation—500mm (to be stabilised or retained and drained).
 - (b) Maximum filling—500mm (to be stabilised or retained and drained).
 - (c) Must not impact on any overland drainage path.
- (6) **Landscaping and open space**
- (a) Minimum site area to be soft landscaped—50% (areas less than 2m in width must not be included in the calculation).
 - (b) Main living area must open onto usable private open space with minimum area of 80m² that is capable of receiving a minimum of 3 hours sunlight between 9am and 3pm on 21 June in any year.
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Schedule 3 Complying development

- (7) **Visual privacy (if a two storey dwelling house)**
- (a) Living areas and balconies that overlook the street must incorporate screening or other measures that maintain the privacy of adjoining properties.
 - (b) Living areas and balconies that face an adjoining property are not permitted on the first floor.
 - (c) Windows to rooms on first floor elevations that face boundaries other than the street must have:
 - (i) a minimum sill height of 1.2m, and
 - (ii) a maximum glazed area of 3.6m.
 - (d) Windows to staircases located at or above first floor level facing boundaries other than the street must be of fixed obscure glazing.
- (8) **Stormwater**
- Roof and surface water (including overflow from rainwater tanks) must be disposed of to a piped stormwater drainage system discharging to the street gutter or an approved inter-allotment drainage system.
- (9) **Access, parking and traffic**
- (a) Only 1 vehicular access point per site.
 - (b) Must provide 2 parking spaces behind the setback to any street frontage.

Dwelling houses (in Zones RU1, RU2, RU4, R5 and E4) and additions to dwelling houses (in Zone E4)

- (1) **Application and general**
- (a) Must be the erection of a new dwelling house or an addition to an existing dwelling house.
 - (b) Minimum lot size—500m².
 - (c) Only 1 dwelling house per property.
 - (d) Must not be a moveable dwelling.
 - (e) Must not be on land to which clause 6.3 applies or on land shown as “2 Hectares for Dwelling House”, “10 Hectares for Dwelling House” or “Twin Creeks” on the Clause Application Map.
 - (f) Must not be on a heritage item, in a heritage conservation area or on an archaeological site.
 - (g) Must not be within 50m of land on which there is category 1 vegetation as shown on the Council’s Bushfire Prone Land Map.
 - (h) Must not be on land in the 20 ANEF contour, or a higher ANEF contour, of the proposed Badgery’s Creek Airport.

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- (i) Must not require the removal of a tree or native vegetation.
 - (j) Must not include a basement or roof terrace.
 - (k) Must not be on an Aboriginal place within the meaning of the *National Parks and Wildlife Act 1974*.
- (2) **Bulk and scale**
- (a) Maximum height of floor above ground level (existing)—900mm.
 - (b) Maximum height of wall above ground level (existing)—3.8m for a single storey dwelling house, or 6.5m for a two storey dwelling house.
 - (c) Maximum overall height at any point above ground level (existing)—8.5m for a single storey dwelling house, or 10m for a two storey dwelling house.
 - (d) Roof pitch must be between 22 and 30 degrees (excluding skillions for attached verandahs etc).
 - (e) Maximum total floor area—400m² for a single storey dwelling house, or 600m² for a two storey dwelling house (including garage and verandahs etc).
 - (f) Width of front facade of building must not be more than 30m, or 60% of width of lot measured in alignment with building setback, whichever is the lesser.
 - (g) If a two storey dwelling house, first floor area must not be more than 70% of the ground floor area, excluding area of any garage or verandah.
 - (h) If a two storey dwelling house, must not reduce the sunlight available to the living areas and private open space of any adjoining dwelling to less than 3 hours between 9am and 3pm on 21 June in any year.
- (3) **Setbacks and siting**
- (a) Minimum setback from street frontage on Greendale Road, Londonderry Road, Mamre Road, The Northern Road, Park Road or the M4 Motorway—30m.
 - (b) Minimum setback from any other street frontage—15m.
 - (c) Minimum setback from secondary street frontage—15m.
 - (d) Minimum setback from other property boundaries—10m.
 - (e) Minimum setback from Nepean River—100m.
 - (f) Minimum setback from other watercourse or riparian corridors—40m.
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Schedule 3 Complying development

- (g) Must be sited clear of any overland flow path, drainage depression, dam or overflow of any dam.
 - (h) Must not be located within the drip line of any existing tree having a height greater than 3.5m.
 - (i) Must not be located on ridgelines or so as to protrude into the skyline.
 - (j) Must not be constructed in a registered easement.
 - (k) Must not be constructed within 3m of a sewer or water main without approval of the relevant authority.
- (4) **Design and finishes**
- (a) Building facades facing any street frontage must be designed to address the frontage and incorporate elements such as wall articulation, windows, verandahs and roof variation.
 - (b) Building design must contain elements of rural character including use of verandahs to shadow and soften building facades and relate buildings back to ground level.
 - (c) The entry and at least one principal living room must be visible from the street.
 - (d) Must not have drive through entrance features.
 - (e) Garages must be integrated in the building facade and setback further than the dwelling.
 - (f) Garages facing public streets must not exceed 50% of the facade width or 6.3m in width, whichever is the lesser.
 - (g) External building materials must have a non-reflective finish and be in neutral earthy tones consistent with the setting and compatible with surrounding development.
 - (h) Projecting roofs, awnings or verandahs must be incorporated to accentuate articulation.
 - (i) If a two storey dwelling house, maximum wall length between corners, articulations, verandahs or awnings—10m.
 - (j) If a two storey dwelling house, must be designed as a combination of 1 and 2 storey elements with a variation in setbacks from both side boundaries.
- (5) **Site works**
- (a) Maximum excavation—800mm (to be stabilised or retained and drained).
 - (b) Maximum filling—800mm (to be stabilised or retained and drained).

-
- (c) Excavation and filling not to extend further than 3m beyond the building footprint.
 - (d) Excavation must not be within 5m of any existing tree that has a height greater than 5m.
 - (e) Must not impact on any overland drainage path.
 - (6) **Landscaping and open space**
 - (a) Main living area must open onto usable private open space with minimum area of 80m² that is capable of receiving a minimum of 3 hours sunlight between 9am and 3pm on 21 June in any year.
 - (b) Site must be provided with landscaping in predominantly native species.
 - (7) **Stormwater**

Roof and surface water (including overflow from rainwater tanks) must be disposed of to a piped stormwater drainage system discharging to the street gutter or an approved inter-allotment drainage system, or via a level spreader system. Flows must not be concentrated or directed toward adjoining properties.
 - (8) **Access, parking and traffic**
 - (a) Only 1 vehicular access point per site.
 - (b) Must provide 2 parking spaces behind the setback to any street frontage.

Garages associated with an existing or proposed dwelling house (in Zone E4)

- (1) **Application and general**
 - (a) Minimum lot size—500m².
 - (b) Only 1 garage per property.
 - (c) Must not be used for any habitable, industrial or commercial purpose.
 - (d) Must not be on land to which clause 6.3 applies or on land shown as “Twin Creeks” on the Clause Application Map.
 - (e) Must not be development on a heritage item, in a heritage conservation area or on an archaeological site.
 - (f) Must not require the removal of a tree or native vegetation.
 - (g) Must not be on an Aboriginal place within the meaning of the *National Parks and Wildlife Act 1974*.
- (2) **Bulk and scale**
 - (a) Maximum height of floor above ground level (existing)—500mm.

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Schedule 3 Complying development

- (b) Maximum height of wall above ground level (existing)—2.7m.
 - (c) Maximum overall height at any point above ground level (existing)—3.6m.
 - (d) Roof pitch must be between 10 and 25 degrees (excluding skillions for attached verandahs etc).
 - (e) Maximum total floor area—40m².
- (3) **Setbacks and siting**
- (a) Must be located behind the building line for dwellings to any street frontage.
 - (b) Minimum setback from other property boundaries—10m.
 - (c) Minimum setback from Nepean River—100m.
 - (d) Minimum setback from other waterway or riparian corridor—40m.
 - (e) Must be located within 20m of the dwelling house.
 - (f) Must not be constructed in a registered easement.
 - (g) Must not be constructed within 3m of a sewer or water main without approval of the relevant authority.
- (4) **Design and finishes**
- (a) If facing a public street, must not exceed 6.3m in width.
 - (b) External building materials must have a non-reflective finish and be in neutral earthy tones consistent with the setting and compatible with surrounding development.
- (5) **Site works**
- (a) Maximum excavation—500mm (to be stabilised or retained and drained).
 - (b) Maximum filling—500mm (to be stabilised or retained and drained).
 - (c) Must not impact on any overland drainage path.
- (6) **Landscaping**
- Minimum site area to be soft landscaped—50% (areas less than 2m in width must not be included in the calculation).
- (7) **Stormwater**
- Roof and surface water (including overflow from rainwater tanks) must be disposed of to a piped stormwater drainage system discharging to the street gutter or an approved inter-allotment drainage system, or via a level spreader system. Flows must not be concentrated or directed toward adjoining properties.

(8) **Access, parking and traffic**

Only 1 vehicular access point per site.

Part 2 Complying development certificate conditions

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and this Plan.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan.

Division 1 Conditions applying before works commence

Protection of adjoining areas

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note. See the entry in the General Exempt Development Code for scaffolding, hoardings and temporary construction site fences.

Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

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Schedule 3 Complying development

Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

Notification to neighbours

- (1) The person having the benefit of the complying development certificate must give at least 2 days' notice in writing of the intention to commence the works to the owner or occupier of any adjoining premises.
- (2) If the complying development includes excavating that will extend below the level of the base of the footings of a building on the adjoining premises, at least 7 days' notice in writing of the intention to commence the works must be given under subclause (1).

Division 2 Conditions applying during the works

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

Hours of construction or demolition

Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

Sedimentation and erosion controls

Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

Division 3 Construction requirements

Staging construction

- (1) If the complying development is the erection of or alterations or additions to a dwelling house, the roof stormwater drainage system must be installed and connected to the drainage system before the roof covering is installed.
- (2) Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.
- (3) If the complying development involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the complying development on the site is obtained.

Utility services

If the complying development requires alteration to or the relocation of utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.

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Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

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

Column 1	Column 2
Locality	Description
Nil	

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Link Road, St Marys	Lot 210, DP 31908	Nil
Dunheved Circuit, St Marys	Lot 205, DP 31908	Nil
Dunheved Circuit, St Marys	Lots 212 and 213, DP 31908	Nil
Christie Street, St Marys	Lot 2151, DP 740147	Nil
Christie Street, St Marys	Lot 2141, DP 772116	Nil
Carinya Avenue, St Marys	Lot 177, DP 26908	Nil
Carinya Avenue, St Marys	Lot 179, DP 26908	Nil
Carinya Avenue, St Marys	Lot 180, DP 26908	Nil
Carinya Avenue, St Marys	Lot 181, DP 26908	Nil
Carinya Avenue, St Marys	Lot 185, DP 26908	Nil

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

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Schedule 5 Environmental heritage

Schedule 5 Environmental heritage

(Clause 5.10)

Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Agnes Banks	Castlereagh Road Alignment	Castlereagh Road (south of the intersection with Smith Road and West Wilchard Road and west of Leland Street)		Local	2260261A
Agnes Banks	Cottage	410–450 Castlereagh Road	Lot 10, DP 792357	Local	2260660
Agnes Banks	Agnes Banks Public School (former)	475–479 Castlereagh Road	Lot 1, DP 776886	Local	2260003
Agnes Banks	Entry to Osborne homestead	548–556 Castlereagh Road	Lot 1, DP 74689	Local	2260007
Agnes Banks	Osborne homestead, barn, out buildings and plantings	580–600 Castlereagh Road	Lot 2, DP 1029702	Local	2260006
Agnes Banks	Chestnut—dwelling and trees	580–600 Castlereagh Road	Lot 2, DP 1029702	Local	2260008
Agnes Banks	Tyreel—dwelling and barn	626–652 Castlereagh Road	Lot 1, DP 739177	Local	2260010
Agnes Banks	Federation farmhouse and trees	706 Castlereagh Road	Lot 4, DP 570547	Local	2260012

Suburb	Item name	Address	Property description	Significance	Item no
Agnes Banks	Brick farmhouse, trees and orchard	850–856 Castlereagh Road	Lot 1, DP 228165	Local	2260659
Agnes Banks	Farmhouse (collapsed) and outbuilding	24–28 Springwood Road	Lot 930, DP 1129072	Local	2260002
Castlereagh	Castlereagh Road	Castlereagh Road		State	2260261C
Castlereagh	Castlereagh Council Chambers (former)	1158–1160 Castlereagh Road	Lot 1, DP 198257	Local	2260018
Cranebrook	Victorian farmhouse	46–54 Gray's Lane	Lot 12, DP 825320	Local	2260035
Cranebrook	Kenilworth—dwelling and trees	6–9 Tallwood Road	Lot 26, DP 855247	Local	2260036
Emu Heights	Gosling Street and Hessel Place Reserve	22 Gosling Street	Lot 22, DP 1076016	Local	2260089
Emu Plains	Sandstone railway culvert	Lamrock Street		Local	2260667
Emu Plains	Concrete house	Railway Street	Lot 980, DP 810551	Local	2260058
Emu Plains	Emu Plains Railway Station	Station Street	Lot 1, DP 1133099	State	2260059
Kemps Creek	Farmhouse	282 Aldington Road	Lot 142, DP 1033686	Local	2260106
Kemps Creek	Gateposts to Colesbrook	269–285 Mamre Road	Lot 8, DP 253503	Local	2260105
Kemps Creek	The Fleurs Radio Telescope Site	885(a) Mamre Road	Lot 21, DP 258414	Local	2260832
Kemps Creek	Bayly Park—house	919–929 Mamre Road	Lot 35, DP 258414	Local	2260104

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Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Llandilo	Farmhouse	330 Eighth Avenue	Lot 330, DP 2147	Local	2260676
Llandilo	Farmhouse	361 Ninth Avenue	Lot 3, DP 231946	Local	2260677
Llandilo	Llandilo Public School	222 Seventh Avenue	Lot 222, DP 2147	Local	2260841
Llandilo	St David's Anglican Church (former)	257B Seventh Avenue	Lot 1, DP 724335	Local	2260673
Llandilo	Community Hall	257C Seventh Avenue	Lot 11, DP 1092204	Local	2260675
Llandilo	Cottage and outbuildings	268 Seventh Avenue	Lot 269, DP 2147	Local	2260113
Llandilo	Farmhouse	170 Sixth Avenue	Lot A, DP 390397	Local	2260842
Londonderry	Londonderry Cemetery	325-331 Londonderry Road	Lot 100, DP 810236	Local	2260115
Luddenham	Brick cottage	21-55 Campbell Street	Lot 1, DP 972057	Local	2260117
Luddenham	Luddenham Road	Luddenham Road			No SHI
Luddenham	Brick cottage	406 Park Road	Part Lot 2, Sec A, DP 1452	Local	2260830
Luddenham	Showground	428-452 Park Road	Lot 1, DP 931631; Lot 2, DP 972057	Local	2260679
Luddenham	Cottage	3065-3067 The Northern Road	Lot 1, DP 930372	Local	2260678
Luddenham	Cottage	3075 The Northern Road	Lot 1, DP 304800	Local	2260118
Luddenham	Luddenham Progress Hall	3091-3095 The Northern Road	Lot 7, DP 1655	Local	2260119

Suburb	Item name	Address	Property description	Significance	Item no
Luddenham	Luddenham Uniting Church and Cemetery	3097–3099 The Northern Road	Lot 8, DP 1655	Local	2260120
Luddenham	St. James Anglican Church and Cemetery	3101–3125 The Northern Road	Lot 2, DP 529143	Local	2260122
Mulgoa	Former Mulgoa Road Alignment	St Thomas Road		State	2260844
Mulgoa	Passadena—House	45–61 Allan Road	Lot 1, DP 227674	Local	2260132
Mulgoa	Fairlight (house, outbuilding and gardens)	377–429 Fairlight Road	Lot 22, DP 625510	State	2260140
Mulgoa	Table Rock Lookout	716–782 Fairlight Road	Lot A, DP 164835	Local	2260141
Mulgoa	Glenleigh	427–507 Mulgoa Road	Lot 2, DP 563748	State	2260273
Mulgoa	Glenmore	754–760 Mulgoa Road	Lot 3, DP 701949	State	2260124
Mulgoa	“Fernhill”, outbuildings and landscape	1041–1117 Mulgoa Road	Lots 10 and 11, DP 615085; Lot 2, DP 541825	State	2260128
Mulgoa	Curtilage of “Fernhill”	1147–1187 Mulgoa Road and 10–156 Mayfair Road	Lot 100, DP 717549; Lot 1, DP 570484; Lot 6, DP 173159; Lot 5, DP 23781; Lot 12, DP 610186; Lot 2, DP 211795; Lots 1–4, DP 260373	Local	2260873

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Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Mulgoa	Mulgoa Public School building, hall residence and trees	1189–1193 Mulgoa Road	Lot 1, DP 853475	Local	2260130
Mulgoa	St. Marys Catholic Church	1262–1266 Mulgoa Road	Lot 10, Sec E, DP 2121	Local	2260133
Mulgoa	Cottage	1296 Mulgoa Road	Lot 2, DP 226343	Local	2260134
Mulgoa	Former irrigation office and police station	1298–1304 Mulgoa Road	Lot 32, DP 585921	Local	2260135
Mulgoa	Cottage	1306 Mulgoa Road	Lot 39, Sec A, DP 2882	Local	2260136
Mulgoa	Donohoe's Cave	Norton's Basin Road off Silverdale Road		Local	2260139
Mulgoa	St Thomas' Anglican Church and Cemetery	43–57 St Thomas Road	Lot 1, DP 996994	State	2260126
Mulgoa	Winbourne	43–119 St Thomas Road	Lot 1, DP 996994; Lot 1, DP 1035490	Local	2260138
Mulgoa	The Cottage	1012–1046 Mulgoa Road	Lots 3–4, DP 241971	State	2260125
Orchard Hills	Farmhouse	80–88 Caddens Road	Lot 6, DP 1344	Local	2260155
Orchard Hills	Lindfield	182–188 Caddens Road	Lot 1, DP 583439	Local	2260845
Orchard Hills	Water reservoir	197–207 Castle Road	Lot 1, DP 430473	Local	2260657
Orchard Hills	Orchard Hills Uniting Church	3 Frogmore Road	Lot 1, DP 923077	Local	2260156

Suburb	Item name	Address	Property description	Significance	Item no
Orchard Hills	Memorial Cairn	Luddenham Road		Local	2260230
Orchard Hills	Mamre	181–275 Mamre Road	Lot 1, DP 530579	State	2260228
Orchard Hills	Memorial Cairn	181–275 Mamre Road	Lot 1, DP 530579	Local	2260229
Orchard Hills	Canine Council dwelling	391–395 Mamre Road	Lot 2, DP 547057	Local	2260846
Orchard Hills	Leeholme Horse Stud rotunda	391–395 Mamre Road	Lot 2, DP 547057	Local	2260232
Penrith	Craithes—dwelling, trees, outbuildings and carriage loop	34–40 Borec Road	Lot 2, DP 802406	State	2260161
Penrith	Weir	Bruce Neil Drive, Nepean River		Local	2260848
Penrith	Cottage	41–43 Camden Street	Lot 13, DP 712385	Local	2260695
Penrith	Edwardian cottage	2068 Castlereagh Road	Lot 3, DP 862636	Local	2260158
Penrith	Cottage	2072–2074 Castlereagh Road	Lot 2, DP 862636	Local	2260693
Penrith	Victorian house	2083–2089 Castlereagh Road	Lot 1, DP 623919	Local	2260160
Penrith	Marcel Breuer Torin factory building	26 Coombes Drive	Lot 4, DP 242954	State	2260827
Penrith	Victoria Bridge	Great Western Highway		State	2260146
Penrith	Penrith Railway Station	Railway land, Jane Street	Lot 31, DP 1086586	Local	2260188

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Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance	Item no
Penrith	The Lodge	48–56 Leland Street	Lot 5, DP 1049780	Local	2260159
Penrith	Museum of Fire (former Penrith Power Station)	1 Museum Drive	Lot 1, DP 1010950	Local	2260259
Penrith	Rowing Course	Nepean River		Local	2260148
Penrith	Railway Bridge	Over Nepean River		Local	2260668
Regentville	Regentville Workers' Terrace	1 Bundarra Road	Lots 1, 2 and 19, DP 16540	Local	2260276
St Marys	Dunheved Fire Station	50 Christie Street	Lot 142, DP 31911	Local	2260655
St Marys	Explosives Storehouse	146 Dunheved Circuit	Lot 131, DP 701610	Local	2260278
St Marys	Bennett Wagon	Pioneer Park, Great Western Highway	Lot B, DP 371329	Local	2260805
St Marys	Shop	373 Great Western Highway	Lot 401, DP 601711	Local	2260806
St Marys	Wagon Wheel Hotel	449 Great Western Highway	Lot 102, DP 1031177	Local	2260308
St Marys	Wool Pack Inn Ruin	556 Great Western Highway	Lot 1, DP 81099	Local	2260654
St Marys	St. Marys Public School	2–6 Princess Mary Street	Lot 1, DP 798964; Lot 1, DP 121443; Lot 1, DP 216092; Lot 1, DP 798965; Lot 2, DP 183835	Local	2260307

Suburb	Item name	Address	Property description	Significance	Item no
St Marys	Cottage	18 Princess Mary Street	Lot 104, DP 1037465	Local	2260309
St Marys	Cottage	20 Princess Mary Street	Lot 13, DP 38418	Local	2260798
St Marys	Cottage	22 Princess Mary Street	Lot 14, DP 38418	Local	2260799
St Marys	Gothic revival cottage	24 Princess Mary Street	Lot 15, DP 38418	Local	2260800
St Marys	Margaret Farm—house, barn and tannery site	Pages Road, Barker, Wilson and Schleicher Streets	Lot 6 and part Lots 1, 3, 4 and 5, DP 30962	Local	2260226A
St Marys	St Marys Railway Station	Corner Station and Queen Streets	Lot 107, DP 752052	Local	2260282
Wallacia	House	38 Greendale Road	Lot 60, DP 21083	Local	2260812
Wallacia	Hall	40 Greendale Road	Lot 61, DP 368083	Local	2260850
Wallacia	Cottage	96–100 Greendale Road	Lot 317, DP 808445	Local	2260811
Wallacia	Wallacia Public School	1573–1585 Mulgoa Road	Lot 50, DP 820512	Local	2260852
Wallacia	Wallacia Post Office	1589 Mulgoa Road	Lot 10, DP 1508	Local	2260851
Wallacia	Wallacia Hotel	1590–1594 Mulgoa Road	Part Lot A, DP 334601	Local	2260325
Wallacia	St. Andrews Church of England (former)	25 Park Road	Lot 1, DP 318587	Local	2260326

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Schedule 5 Environmental heritage

Part 2 Heritage conservation areas

Name of heritage conservation area	Identification on Heritage Map	Significance	Map ref
Park Road Wallacia Conservation Area	Shown hatched and numbered CA1	Local	CA1
Mulgoa Road Wallacia Conservation Area	Shown hatched and numbered CA2	Local	CA2

Part 3 Archaeological sites

Suburb	Item name	Address	Property description	Significance	SHI No
Berkshire Park	(Site) Berkshire Park historical homestead	844–848 Richmond Road	Lot 3, DP 1097876	Local	2260662
Leonay	Site of Edinglassie	Lapstone Place	Lot 102, DP 235829; Lot 2, DP 242718	Local	2260112
Mulgoa	Irrigation canal	Mulgoa Road, Queenshill Drive and Littlefields Road	Lots 5, 6, 8 and 9, DP 1046980; Lot 181, DP 230752; Lots 5 and 6, DP 718233	Local	2260137
Mulgoa	Regentville Mansion and vineyard terracing site	460a–626 Mulgoa Road	Lot 40, DP 840788	Local	2260271
Regentville	Regentville Windmill site	127–129 and 131–135 Martin Street	Lot 4, DP 249387; Lot 13, DP 633042	Local	2260680
Wallacia	Luddenham Homestead site	1–9 Park Road	Lots 1–3, DP 504928; Lots E–G, DP 390228	Local	2260849

Dictionary

(Clause 1.4)

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

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

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

advertisement has the same meaning as in the Act.

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

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

affordable housing has the same meaning as in the Act.

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

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

agriculture means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

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

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

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

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

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

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

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

Note. The term is defined as follows:

aquaculture means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of ***natural water-based aquaculture***, ***pond-based aquaculture*** and ***tank-based aquaculture***.

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 5, and
- (c) that contains one or more relics.

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

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and
- (c) none of the dwellings is located above any part of another dwelling.

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

backpackers' accommodation means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

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

bed and breakfast accommodation means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

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

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

biodiversity means biological diversity.

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

Note. The term is defined as follows:

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

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

biosolid waste application means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

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

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 may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and

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(d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

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

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

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

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

brothel has the same meaning as in the Act.

building has the same meaning as in the Act.

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

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

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

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

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

bulky goods premises means a building or place 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 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.

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

Note. The term is defined as follows:

bush fire hazard reduction work means:

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

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

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

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

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

business identification sign means a sign:

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

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

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.

canal estate development means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
 - (i) dwellings that are permitted on rural land, and
 - (ii) dwellings that are used for caretaker or staff purposes, or

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- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

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

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

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

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

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

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

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

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

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

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or

- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

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

Note. The term is defined as follows:

classified road means any of the following:

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

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

Clause Application Map means the Penrith Local Environmental Plan 2010 Clause Application Map.

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

Note. The term is defined as follows:

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

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

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

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

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

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

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

Note. The term is defined as follows:

coastal zone means:

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

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

community facility means a building or place:

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

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

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

correctional centre means:

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

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

Council means the Penrith City Council.

crematorium means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or

(c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

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

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

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.

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), but does not include a secondary dwelling.

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

dwelling house means a building containing only one dwelling.

earthworks means excavation or filling.

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

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

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

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

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

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emergency services organisation means any of the following:

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

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

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

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

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

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

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

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

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

extensive agriculture means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
- (b) the grazing of livestock, or
- (c) bee keeping,

for commercial purposes, but does not include any of the following:

- (d) animal boarding or training establishments,
- (e) aquaculture,
- (f) farm forestry,
- (g) intensive livestock agriculture,
- (h) intensive plant agriculture.

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.

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

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.

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

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

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

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

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

Note. The term is defined as follows:

Definition of “fish”

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

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

floor space ratio—see clause 4.5.

Floor Space Ratio Map means the Penrith Local Environmental Plan 2010 Floor Space Ratio Map.

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, take away food and drink premises, milk bars and pubs.

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

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- (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.

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

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

funeral chapel means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

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.

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

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and

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- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

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

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

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

group home means a 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.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

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

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for

example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

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

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

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

health consulting rooms means 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.

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

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

heavy industry means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

Height of Buildings Map means the Penrith Local Environmental Plan 2010 Height of Buildings Map.

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

heliport means a place open to the public 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:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and

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(b) the location and nature of which is described in Schedule 5, and includes any heritage items situated on or within that area.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning 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 that impact.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

Heritage Map means the Penrith Local Environmental Plan 2010 Heritage Map.

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

highway service centre means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

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

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

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

home business means a business 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
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any 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,

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

Note. See clause 5.4 for controls relating to the floor area used to carry on the business.

home industry means a light industry 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
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry 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,

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

Note. See clause 5.4 for controls relating to the floor area used to carry on the home industry.

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 or oil, traffic generation or otherwise, or

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- (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
- (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.

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

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 or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (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.

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 backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

Note. See clause 5.4 for controls relating to the retail floor area.

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.

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

intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

intensive plant agriculture means any of the following carried out for commercial purposes:

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

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(c) turf farming,

(d) viticulture.

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

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

Note. See clause 5.4 for controls relating to the gross floor area.

Land Application Map means the Penrith Local Environmental Plan 2010 Land Application Map.

Land Reservation Acquisition Map means the Penrith Local Environmental Plan 2010 Land Reservation Acquisition Map.

Land Zoning Map means the Penrith Local Environmental Plan 2010 Land Zoning Map.

landscape and garden supplies means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

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

light industry means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, 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 or oil, or otherwise.

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

livestock processing industry means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackeries, tanneries, woollscours and rendering plants.

Lot Size Map means the Penrith Local Environmental Plan 2010 Lot Size Map.

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

marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

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

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

medical centre means 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.

mezzanine means an intermediate floor within a room.

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

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

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

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

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

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

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

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

Note. The term is defined as follows:

moveable dwelling means:

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

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

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

native flora means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

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

Note. The term is defined as follows:

Meaning of “native vegetation”

- (1) ***Native vegetation*** means any of the following types of indigenous vegetation:
 - (a) trees (including any sapling or shrub, or any scrub),
 - (b) understorey plants,
 - (c) groundcover (being any type of herbaceous vegetation),
 - (d) plants occurring in a wetland.
- (2) Vegetation is ***indigenous*** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) ***Native vegetation*** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

Natural Resources Sensitivity Land Map means the Penrith Local Environmental Plan 2010 Natural Resources Sensitivity Land Map.

natural water-based aquaculture means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

Note. Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

navigable waterway means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

neighbourhood shop means 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.

Note. See clause 5.4 for controls relating to the retail floor area.

non-potable water means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

NSW Coastal Policy means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

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

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the

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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.

pond-based aquaculture means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

Note. Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

port facilities means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receival, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

potable water means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

private open space means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

property vegetation plan has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

pub means licensed premises under the *Liquor Act 2007* the principal purpose of which is the 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 authority has the same meaning as in the Act.

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

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

public reserve has the same meaning as in the *Local Government Act 1993*.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any 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.

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court,

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indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Reduced Level (RL) means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

registered club has the same meaning as in the *Registered Clubs Act 1976*, whether or not entertainment is provided at the club.

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

- (a) that relates to the settlement of the area of Penrith, 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.

research station means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

residential accommodation means a building or place used predominantly as a place of residence, 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, but does not include an attached dwelling or multi dwelling housing.

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

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, whether or not takeaway meals and beverages or entertainment are also provided.

restricted dairy means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

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.

restriction facilities means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

retail premises means a building or place used for the purpose of selling items by retail, or 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.

roadside stall means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area.

rural industry means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
- (b) livestock processing industry, or
- (c) use of composting facilities and works (including to produce mushroom substrate), or
- (d) use of sawmill or log processing works, or

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- (e) use of stock and sale yards, or
 - (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,
- undertaken for commercial purposes.

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.

rural worker's dwelling means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

sawmill or log processing works means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

Scenic and Landscape Values Map means the Penrith Local Environmental Plan 2010 Scenic and Landscape Values Map.

school means a government school or non-government school within the meaning of the *Education Act 1990*.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Note. See clause 5.4 for controls relating to the total floor area.

self-storage units means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

semi-detached dwelling means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

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.

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.

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

sewage treatment plant means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

sewerage system means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

sex services means sexual acts or sexual services in exchange for payment.

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

shop means 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.

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shop top housing means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

Note. The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

spa pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

stock and sale yard means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

swimming pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined as follows:

swimming pool means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

take away food and drink premises means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

tank-based aquaculture means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the Act.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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

timber and building supplies means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

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, bed and breakfast accommodation and backpackers' accommodation.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

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

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.

vehicle sales or hire premises means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

viticulture means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

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.

waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

water recycling facility means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

water reticulation system means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

water storage facility means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

water supply system means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

water treatment facility means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgeland, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently

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or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or

- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

wholesale supplies means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.