

# Environmental Planning and Assessment Model Provisions 1980

[1980-55]



New South Wales

## Status Information

### Currency of version

Historical version for 1 February 2000 to 27 June 2004 (accessed 11 July 2024 at 21:12)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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File last modified 1 February 2000

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New South Wales

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# Environmental Planning and Assessment Model Provisions 1980



New South Wales

## Part 1 Preliminary

### 1 Name of Provisions

These provisions may be cited as the *Environmental Planning and Assessment Model Provisions 1980*.

### 2 Division into Parts

These Provisions are divided as follows:

PART 1—PRELIMINARY—cii 1-3

PART 2—DEFINITIONS—cl 4

PART 3—CONSENTS—cii 5, 6

PART 4—GENERAL AMENITY AND CONVENIENCE—cii 7, 8

PART 5—SPECIAL PROVISIONS—cii 9-34

PART 6—GENERAL—cii 35, 36

SCHEDULE

### 3 Definitions

In these provisions, except in so far as the context or subject matter otherwise indicates or requires:

**local environmental plan** means the local environmental plan which in accordance with section 33 (1) of the Act adopts wholly or partially by reference these provisions.

**zone** has the meaning ascribed to it in the local environmental plan.

## Part 2 Definitions

### 4 Definitions

- (1) Except in so far as the context or subject matter of the local environmental plan otherwise indicates or requires:

**agriculture** has the meaning ascribed to it in section 514A of the [Local Government Act 1919](#).

**airline terminal** means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an airport or an aerodrome.

**arterial road** means any existing road indicated on the map by a continuous red band on white between firm black lines.

**boarding-house** includes a house let in lodgings or a hostel but does not include a motel.

**bulk store** means a building or place used for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

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

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

**car repair station** means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery not being:

- (a) body building,
- (b) panel beating which involves dismantling, or
- (c) spray painting other than of a touching-up character.

**child care centre** means a building or place which is used (whether or not for profit) for the purpose of educating, minding or caring for children (whether or not any of the children are related to the owner or operator), but only if the following conditions are satisfied:

- (a) the children number 6 or more, are under 6 years of age, and do not attend a government school, or a registered non-government school, within the meaning of the [Education Reform Act 1990](#), and
- (b) the building or place does not provide residential care for any of the children

(other than those related to the owner or operator).

**church** means any place of public worship, whether in the Christian tradition or otherwise.

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

**commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

**Department** means the Department of Urban Affairs and Planning.

**development** has the meaning ascribed to it in section 4 of the Act.

**dwelling** means a room or suite 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 1 but not more than 1 dwelling.

**educational establishment** means a building used as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.

**extractive industry** means:

- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

**extractive material** means sand, gravel, clay, turf, soil, rock, stone or similar substances.

**floor** means that space within a building which is situated between one floor level and the floor level next above or if there is no floor above, the ceiling or roof above.

**forestry** includes aboriculture, silviculture, forest protection, the cutting, dressing and preparation, other than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

**general store** means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office.

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

**gross floor area** means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1 400 millimetres above each floor level excluding:

- (i) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall,
- (ii) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts,
- (iii) car-parking needed to meet any requirements of the council and any internal access thereto,
- (iv) space for the loading and unloading of goods.

**health care professional** means a person who provides professional health services to members of the public, and includes:

- (a) a podiatrist registered under the [Podiatrists Act 1989](#), and
- (b) a chiropractor or osteopath or chiropractor and osteopath registered under the [Chiropractors and Osteopaths Act 1991](#), and
- (c) a physiotherapist registered under the [Physiotherapists Registration Act 1945](#), and
- (d) an optometrist registered under the [Optometrists Act 1930](#).

**helipad** means an area or place not open to public use which is authorised by the Department of Transport and which is set apart for the taking off and landing of helicopters.

**heliport** means an area or place open to public use which is licensed by the Department of Transport for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

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

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person, and

(b) the industry does not:

- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise,
- (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
- (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the *Factories, Shops and Industries Act 1962*,
- (b) the employment of persons other than those residents,
- (c) 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 or grit, oil or otherwise,
- (d) the display of goods, whether in a window or otherwise,
- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (f) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

**hospital** means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and 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:

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.



**hotel** means the premises to which a hotelier's licence granted under the [Liquor Act 1982](#) relates.

**industry** means:

- (a) any manufacturing process within the meaning of the [Factories, Shops and Industries Act 1962](#), or
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business,

but does not include an extractive industry.

**institution** means a penal or reformatory establishment.

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

**light industry** means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

**main road** means a main road within the meaning of the [Roads Act 1993](#).

**major road frontage** in relation to land, means the frontage of that land to:

- (a) a main or arterial road, or
- (b) a road connecting with a main or arterial road, if the whole or any part of the frontage is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the main or arterial road.

**map** means the map which supports the local environmental plan.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon, wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**mineral sand mine** means a mine for or in connection with the purpose of obtaining

ilmenite, monazite, rutile, zircon or similar minerals.

**motel** means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

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

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

**parking space** includes any garage or court available for use by vehicles.

**place of assembly** means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

**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.

**professional consulting rooms** means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of a dwelling-house and used by not more than three legally qualified medical practitioners or by not more than three dentists within the meaning of the [Dentists Act 1989](#), or by not more than three health care professionals, who practise therein the profession of medicine, dentistry or health care respectively, and if more than one practise in partnership, and who employ not more than three employees in connection with that practice.

**public building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organization established for public purposes.

**public utility undertaking** means any of the following undertakings carried on or permitted or suffered 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 shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking.

**recreation establishment** means health farms, religious retreat houses, rest homes, youth camps and the like but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause.

**recreation facility** means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

**refreshment room** means a restaurant, cafe, tea room, eating house or the like.

**residential flat building** means a building containing 2 or more dwellings.

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

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

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

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

**rural worker's dwelling** means a dwelling which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in rural occupation on that land.

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

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used for any one or more of the following purposes:

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) washing and greasing of motor vehicles,

(c) installation of accessories,

(d) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).

**shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

**site area** means the area of land to which an application for consent under the Act relates, excluding therefrom any land upon which the development to which the application relates is not permitted by or under the local environmental plan.

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

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

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

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

**units for aged persons** means a residential flat building used to house aged persons as defined in the [Aged or Disabled Persons Homes Act 1954](#), as amended, of the Parliament of the Commonwealth, erected or to be erected by an eligible organisation as defined in that Act, the Department of Housing or any other Department or instrumentality of the Crown.

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

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

- (2) A reference in this clause to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.
- (3) The substitution or amendment of a definition in this clause does not have the effect of prohibiting the carrying out of development that was being lawfully carried out

immediately before the definition was substituted or amended.

## **Part 3 Consents**

### **5 Consideration of certain applications**

- (1) The consent authority shall, in respect of an application under the Act for its consent or approval to the development of land within view of any waterway or adjacent to any main or arterial road, railway, public reserve or land zoned as open space, take into consideration the probable aesthetic appearance of the proposed building or work or that land when used for the proposed purpose and viewed from that waterway, main or arterial road, railway, public reserve or land zoned for open space.
- (2) The consent authority shall, in respect of an application under the Act for its consent or approval to development for the purposes of commercial premises, shop, residential flat building, hotel, motel, service station, car repair station, place of assembly, industrial premises or caravan park or to the carrying out of any other development likely to cause increased vehicular traffic on any road in the vicinity of that development, take into consideration:
  - (a) whether adequate vehicular exits from and entrances to the sites have been provided so that vehicles using those exits and entrances will not endanger persons and vehicles using those roads,
  - (b) the provision of space on the site or on land adjoining the site, other than a public road, for the parking or standing of such number of vehicles as the council may determine,
  - (c) whether any representations made by the Roads and Traffic Authority have been met, and
  - (d) whether adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.
- (3) The consent authority shall, in respect of an application under the Act for its consent or approval to development for the purpose of a transport terminal, consult with the Roads and Traffic Authority and shall take into consideration:
  - (a) any representations made to it by the Roads and Traffic Authority,
  - (b) the standard of the roads in the locality in relation to the size and the weight of the vehicles likely to use the transport terminal,
  - (c) traffic conditions and facilities generally in the vicinity of the approaches to the transport terminal,
  - (d) the means of ingress and egress,

- (e) the provision on land (other than a public road) of space for the parking or standing of vehicles, and
- (f) the layout of buildings on the site in relation to:
  - (i) the provision of space for the parking and standing of vehicles,
  - (ii) the provision of space for the loading, unloading or fuelling of vehicles, and
  - (iii) the traffic facilities within the site.
- (4) The consent authority shall, in respect of an application under the Act for its consent or approval to development for the purpose of an extractive industry or mine, take into consideration the advisability of imposing conditions to secure the reinstatement of the land, to facilitate the removal of waste material or refuse, to secure public safety in the neighbourhood and to protect the amenity of the neighbourhood.
- (5)
  - (a) The consent authority shall, in respect of an application under the Act for its consent or approval to development for the purpose of a mineral sands mine or mines, consult with the Department and shall not grant or refuse consent nor attach conditions to a consent unless the Department gives its concurrence.
  - (b) The Department referred to in subclause (5) (a) shall take into consideration in deciding whether concurrence should be granted, the impact of the development on the environment and any implications therefrom.

## **6 (Repealed)**

## **Part 4 General amenity and convenience**

### **7 Foreshore building line**

- (1) The council may, by resolution, fix a line (in this clause called a **foreshore building line**) in respect of any land fronting any bay, river, creek, lake, lagoon, harbour or ocean.
- (2) A foreshore building line shall, when fixed in accordance with subclause (1), be marked upon a plan or clearly described in the resolution and the plan or resolution shall be available for inspection by the public during the office hours of the council.
- (3) The council may alter or abolish any foreshore building line, where the levels, depth or other exceptional features of the site make it necessary or expedient to do so.
- (4) A building shall not be erected between a foreshore building line and a bay, river, creek, lake or lagoon in respect of which the line is fixed.

## 8 Preservation of trees

- (1) Where it appears to the council that it is expedient for the purpose of securing amenity or of preserving existing amenity, it may, for that purpose and by resolution, make an order (hereinafter referred to as a **tree preservation order**) and may, by like resolution, rescind or vary any such order.
- (2) A tree preservation order may prohibit the ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in the order except with the consent of the council and any such consent may be given subject to such conditions as the council thinks fit.
- (3) A tree preservation order may relate to any tree or trees or to any specified class, type or description of trees on land described particularly or generally by reference to the Local Government area or any divisions thereof.
- (4) The council shall forthwith upon the making of a tree preservation order cause notice of the making of the order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situated.
- (5) A person who contravenes or causes or permits to be contravened a tree preservation order shall be guilty of an offence.
- (6) It is a sufficient defence to proceedings under this clause relating to the ring-barking, cutting down, topping, lopping, removal, injury or wilful destruction of a tree to prove:
  - (a) that the tree was dying or dead or had become dangerous, or
  - (b) that taking the action was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree was situated, or
  - (c) that written notice about the proposed action was given to the council of the area in which the tree was situated and the council, before the action was taken, confirmed in writing:
    - (i) that the tree was in a fuel free zone within the meaning of the document entitled "Planning for Bush Fire Protection" published by the Department of Bush Fire Services, and
    - (ii) that, if the council has classified species of trees as being likely to present a significant fire hazard, the tree was of such a species, or
  - (d) that written notice about the proposed action was given to that council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the council did not advise the person during that period that it opposed the action being taken.

In this subclause, **notice** means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species situated in a specified position on land described in the notice is intended to be ring-barked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.

- (7) The powers conferred on the council in pursuance of this clause shall not apply to trees in a State forest or on land reserved as a timber reserve within the meaning of the *Forestry Act 1916*, or to trees required to be trimmed or removed under section 48 of the *Electricity Supply Act 1995*.

## **Part 5 Special provisions**

### **Division 1 Roads**

#### **9 Relocation of major roads**

The consent authority shall not, without the approval of the Department cause to be aligned or realigned any main road or any other roads which the Roads and Traffic Authority has notified as a proposed main road.

#### **10 Opening of public road**

- (1) A road or other means of access which forms a junction or intersection with a main road shall not be opened without the consent of the consent authority.
- (2) In respect of any application for consent to open a public road or other means of access forming a junction or intersection with a main road, the consent authority shall consult with the Roads and Traffic Authority and shall take into consideration:
- (a) the treatment of the junction or the intersection and its location having regard to town and country planning principles and to the safety and convenience of the public,
  - (b) the effect of opening the road or other means of access on the development of the locality, and
  - (c) any representations by the Roads and Traffic Authority.

#### **11 Subdivision—new roads**

Where the land is zoned for the purpose of a proposed new road, the consent authority shall not consent to a subdivision of land of which the proposed road forms part unless the subdivision makes provision for the opening of a road in reasonable conformity with the proposed road.



## **12 Land used for commercial or industrial purposes**

- (1) This clause shall apply to all land having a frontage to a main or arterial road used or to be used for commercial or industrial purposes, whether or not it forms the site of a building.
- (2) If:
  - (a) there is no building on the land or the only building thereon is of a minor character—the land, or
  - (b) the land forms the site of a building other than one of a minor character—the land between the road frontage and the buildings, shall not be used for the storage, sale or display of goods or for advertising purposes without the consent of the consent authority.

## **13 Off street loading etc facilities**

- (1) Subject to this clause, the consent authority shall not consent to the erection or use of any building on land zoned for commercial or industrial purposes unless provision is made within the site area for loading and unloading facilities satisfactory to the consent authority.
- (2) If a building referred to in subclause (1) has access to a rear lane, the loading and unloading facilities shall be provided from that lane unless the consent authority is satisfied that the lane is inadequate for the purpose.
- (3) This clause does not apply to development being minor alterations to an existing building if, in the opinion of the consent authority, the size and shape of the land having regard to existing buildings render the provision of facilities in accordance with this clause impracticable.
- (4) Where in the opinion of the consent authority provision cannot be made in subclause (1) for loading and unloading, the consent authority may consent to the erection or use of a building subject to any conditions it may impose.

## **14 Development on public road**

- (1) A person shall not carry out development on a public road shown uncoloured on the map or part of such road lawfully closed without the consent of the consent authority.
- (2) The consent authority shall only grant its consent under subclause (1) for a purpose which may be carried out either with or without the consent of the consent authority on land adjoining that road.

## **Division 2 Residential development**

### **15 Conversion of buildings**

- (1) A person may, with the consent of the consent authority, alter or add to a dwelling-house so as to create two dwellings.
- (2) Except as provided in subclause (3) the consent authority shall not grant consent under subclause (1) unless:
  - (a) the area of the allotment on which the dwelling-house is erected is not less than 400 square metres,
  - (b) the floor space ratio of the dwelling-house as altered or added to is not greater than:
    - (i) the floor space ratio of the dwelling-house before it was added to or altered, or
    - (ii) 0.5:1,whichever is the greater, and
  - (c) it is satisfied that arrangements satisfactory to it have been made for the provision of a water supply and for the disposal of sewage and stormwater drainage from the land.
- (3) The consent authority may, in relation to the consent granted under subclause (1), impose a condition requiring the owner of the allotment to occupy one of the dwellings created pursuant to that subsection.
- (4) The area occupied by a garage or car port shall not be taken into account when calculating floor space ratios.
- (5) The provisions of the local environmental plan relating to residential flat buildings do not apply to a building altered or added to or proposed to be altered or added to pursuant to this clause.

### **16 Residential flat buildings—parking**

- (1) A residential flat building (other than units for aged persons) shall not be erected or used unless provision is made within the site for:
  - (a) parking space not less than 5.4 metres by 2.4 metres for each dwelling within the building, and
  - (b) proper vehicular access to the parking space.
- (2) In the case of units for aged persons, there shall be provided so many vehicular parking spaces not less than 5.4 metres by 2.4 metres, as the consent authority may

require, having regard to the location of the building in relation to public transport and the availability of alternative car parking facilities, but so that there shall be provided not less than 1 such space for each 10 dwellings and that the consent authority may not require the provision of more than 1 such space for each 5 dwellings.

### **17 Residential flat buildings—setbacks**

A boarding-house or a residential flat building shall not be erected on an allotment of land within a residential zone closer than 9 metres to a main or arterial road.

### **18 Restriction on excavations**

Where immediately before the appointed day, any land within a residential zone was used for the purpose of winning extractive materials, no excavation for that purpose shall be made, opened or extended within 15 metres of adjoining land which is within a residential zone, and was not immediately prior to the appointed day in the same ownership.

## **Division 3 Certain development**

### **19 Service stations or car repair stations**

A building or work shall not be erected or used and land shall not be used for the purpose of a service station unless:

- (a) the site is more than 90 metres from the junction or intersection of a main or arterial road, with another main or arterial road,
- (b) where the site has frontage to a main or arterial road:
  - (i) the Roads and Traffic Authority has been consulted, and
  - (ii) where the site is not a corner lot, the frontage to the road is not less than 38 metres, or, where the site is a corner lot, the frontage to the road is not less than 30 metres,
- (c) where the site has frontage to a road other than a main or arterial road, the frontage is not less than 30 metres,
- (d) the width of a vehicular crossing over a footpath is not more than 9 metres,
- (e) any vehicular crossing over a footpath is not closer than 6 metres to a road intersection,
- (f) separate entrances to and exits from the site are provided and those entrances and exits are separated by physical barriers constructed on the road alignment and so identified by suitable signs readily visible to persons using the adjoining road or entering,
- (g) where the site is a corner lot and the council so requires, separate entrances and exits

are provided to and from each of the adjoining roads and a physical barrier is erected so that a vehicle entering the site must, when leaving it, use an exit leading only to the road from which entrance was gained,

- (h) inlets to bulk fuel storage tanks are so situated on the site as to ensure that tankers, while discharging fuel into such tanks, shall stand wholly within the site,
- (i) fuel pumps are within the site and not closer than 3 metres to the road alignment,
- (j) the layout of the site is such as to facilitate the movement of vehicles entering into or leaving the site with the flow of traffic on the adjoining road,
- (k) vehicular access to or from the site from or to an adjoining road is situated not less than 24 metres to any traffic lights on the roads, and
- (l) the site is suitably landscaped to the satisfaction of the consent authority.

## **20 Drive-in theatre**

- (1) A drive-in theatre shall not be erected or used unless the following conditions are complied with:
  - (a) a vehicular entrance to or exit from the drive-in theatre shall not be located within 90 metres of a main or arterial road,
  - (b) a vehicular drive-way, at least 60 metres in length and 21 metres in width, leading from the entrance to the site to the location of the ticket office, shall be located within the site of the drive-in theatre, and
  - (c) the screen of the drive-in theatre shall be so located or protected that no image projected thereon shall be visible and identifiable from a main or arterial road.
- (2) Where an application is made for the purpose of a drive-in theatre, the consent authority shall, before determining the application, consult with the Roads and Traffic Authority and take into consideration any representations made by that Authority.

## **21 Drive-in take-away food shops**

A drive-in take-away food shop shall not be erected or used unless the following conditions are complied with:

- (a) the site area is not less than 1 000 square metres,
- (b) where the site has a frontage to a main or arterial road:
  - (i) the frontage is not less than 27 metres, and
  - (ii) there is provided on the site parking space for not less than 30 motor vehicles,
- (c) where the site has a frontage to any other road:

- (i) that frontage is not less than 21 metres, and
  - (ii) there is provided on the site parking space for so many motor vehicles as the consent authority may determine,
- (d) any vehicle crossing is not:
- (i) less than 6 metres wide,
  - (ii) closer than 9 metres to another vehicular crossing on the site, or
  - (iii) closer than 7.6 metres to a road intersection,
- (e) the site is landscaped to the satisfaction of the consent authority, and
- (f) not more than 2 advertising structures are displayed outside the shop.

## **22 Motor showrooms**

A person shall not carry out development for the purposes of a motor showroom on any land unless:

- (a) where the land has a frontage to a main or arterial road, vehicular access to the site where alternative access is available is only by way of a road, other than the main or arterial road, and
- (b) where the site is a corner lot, the council is satisfied that the layout and placement of caravans, boats or motor vehicles (as the case may be) will not obstruct the vision of drivers using the intersection.

## **23 Industrial use of land**

A person shall not, within a business zone erect or use a building or use land for the purposes of an industry other than a service station or car repair station if:

- (a) the total floor space of the building or the part of the building so used or proposed to be used or the total area of the land so used or proposed to be used exceeds 500 square metres, or
- (b) the allotment of land upon which the proposed development is to be established exceeds 1 000 square metres.

## **Division 4 Miscellaneous development**

### **24 Railway sidings**

Nothing in the local environmental plan shall operate to prohibit the construction and use of any railway siding designed to serve lands in an industrial zone.

## **25 Liquid fuel depots**

- (1) A person shall not establish, enlarge or use a liquid fuel depot having an above ground storage capacity of 500 kilolitres or more of inflammable liquid without the prior consent of the consent authority and the concurrence of the Department for the time being engaged in the administration of the *Dangerous Goods Act 1975*.
- (2) The Department referred to in subclause (1) shall take into consideration in deciding whether concurrence should be granted the provisions of the Act referred to in subclause (1) and any other matters relating to safety.

## **26 Junkyards and offensive or hazardous industries**

Development for the purposes of a junkyard or an offensive or hazardous industry:

- (a) shall not be carried out within 90 metres of a main or arterial road, and
- (b) shall be screened from view to the satisfaction of the consent authority.

## **27 Sawdust and sawmill waste**

Except with the consent of the consent authority sawdust or sawmill waste shall not be:

- (a) deposited on any land, whether by way of filling or otherwise, or
- (b) burnt:
  - (i) except in an incinerator of a type approved by the consent authority, or
  - (ii) where the sawmill is isolated from urban development, except in a manner approved by the consent authority.

## **28 General store**

- (1) A person shall not erect or use a building for the purposes of a general store on an allotment of land within a rural zone, where such allotment has a frontage to a main or arterial road or is less than 800 metres from any other allotment of land on which is erected a shop or a general store.
- (2) A person shall not erect or use a building for the purposes of a general store in any zone referred to in subclause (1) of this clause closer to the alignment of a road other than the building line fixed in respect of any adjoining premises or, where no such building line has been fixed, closer to such alignment than the distance generally applying in respect of other premises having frontage to such road.

## **29 Construction of dams**

A person shall not construct a dam on any land except with the consent of the consent authority.

## **Division 5 General**

### **30 Services**

The consent authority shall not grant its consent to the carrying out of any development on any land unless:

- (a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land, or
- (b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.

### **31 Development below high water mark**

A person shall not carry out development on any land:

- (a) below high water mark,
- (b) forming part of the bed of a river, creek, bay, lagoon or other natural watercourse shown uncoloured on the map, or
- (c) which has been reclaimed,

without the consent of the consent authority.

### **32 Extractive industry, transport terminal**

A person shall not erect or use a building or work or use land within a rural zone within 400 metres of a main or arterial road for the purposes of:

- (a) an extractive industry, or
- (b) a transport terminal,

unless:

- (c) the building or work or land to be used is more than 90 metres from the alignment of a main or arterial road, and
- (d) there is no direct access from the land to a main or arterial road.

### **33 Advertising structures**

(1) A person shall not use an advertising structure on land within a residential zone for the purpose of displaying any advertisement, other than an advertisement:

- (a) which relates to that land, or to premises situated on that land or adjacent land, and
- (b) which specifies one or more of the following particulars:

- (i) the purpose for which the land or premises is or are used,
  - (ii) the identification of a person residing or carrying on an occupation or business on the land or premises,
  - (iii) a description of an occupation or business referred to in subparagraph (ii),
  - (iv) particulars of the goods or services dealt with or provided on the land or premises.
- (2) A person shall not use an advertising structure on land within a rural zone for the purpose of displaying any advertisement, other than:
- (a) an advertisement of the kind permitted by subclause (1), or
  - (b) a notice directing the travelling public to tourist facilities or activities or to places of scientific, historical or scenic interest.

### **34 Flood prone land**

- (1) A person shall not erect a building or carry out a work on land within a flood prone area without the consent of the consent authority.
- (2) The consent authority may, as condition of its consent, require the floor of the building or work to be erected at a height sufficient, in the opinion of the consent authority, to prevent or reduce the incidence of flooding of that building or work or of adjoining land.

## **Part 6 General**

### **35 Savings**

Nothing in the local environmental plan shall be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:

- (a) the carrying out of development of any description specified in Schedule 1,
- (b) the use of existing buildings of the Crown by the Crown, or
- (c) home occupations carried on in dwelling-houses.

### **36 (Repealed)**

## **Schedule 1**

(Clause 35)

- 1** The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:

- (a) any development required in connection with the movement of traffic by rail, including the



construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and

(b) the erection within the limits of a railway station of buildings for any purpose,

but excluding:

(c) the construction of new railways, railway stations and bridges over roads,

(d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration so as materially to affect the design thereof of railway stations or bridges,

(e) the formation or alteration of any means of access to a road, and

(f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.

**2** The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings, that is to say:

(a) development of any description at or below the surface of the ground,

(b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the appointed day of any plant or other structures or erections required in connection with the station or substation,

(c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housings of stone, concrete or brickworks,

(d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,

(e) the erection of service reservoirs on land acquired or in process of being acquired for the purposes thereof before the appointed day, provided reasonable notice of the proposed erection is given to the council, or

(f) any other development except:

(i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings, or

(ii) the formation or alteration of any means of access to a road.

**3** The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration,

maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof, or
  - (b) the formation or alteration of any means of access to a road.
- 4** The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect the design or external appearance thereof, or
  - (b) the formation or alteration of any means of access to a road.
- 5** The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alterations, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof, or
  - (b) the formation or alteration of any means of access to a road.
- 6** The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof, or
  - (b) the formation or alteration of any means of access to a road.
- 7** The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:
- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect the design or external appearance thereof, or
  - (b) the formation or alteration of any means of access to a road.
- 8** The carrying out of any development required in connection with the construction, reconstruction,

improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.

- 9** The carrying out of any forestry work by the Forestry Commission, School Forest Trust or Community Forest Authorities empowered under relevant Acts to undertake afforestation, roading, protection, cutting and marketing of timber, and other forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the [Forestry Act 1916](#).
- 10** The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
- (i) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or purposes thereof,
  - (ii) any development designed to change the use or purpose of any such reserve.
- 11** The carrying out or causing to be carried out by a council engaged in flood mitigation works or by the Department of Land and Water Conservation of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the [Water Act 1912](#), the [Irrigation Act 1912](#), the [Farm Water Supplies Act 1946](#) or the [Rivers and Foreshores Improvement Act 1948](#), except:
- (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof,
  - (ii) the formation or alteration of any means of access to a road.