

# Sydney Regional Environmental Plan No 33—Cooks Cove (2004 EPI 397)

[2004-397]



New South Wales

## Status Information

### Currency of version

Historical version for 1 February 2020 to 25 November 2021 (accessed 14 January 2025 at 8:03)

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.

### Notes—

- **Deemed SEPP**

From 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the [Environmental Planning and Assessment Act 1979](#)).

- **See also**

[Planning Legislation Amendment Bill 2019](#)

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.

## Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 February 2020

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# Sydney Regional Environmental Plan No 33—Cooks Cove (2004 EPI 397)



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Sydney Regional Environmental Plan No 33—Cooks Cove*.

### 2 Aims of plan

This plan aims—

- (a) to establish planning principles for the development of land that promote the ecologically sustainable use of the Cooks Cove site, and
- (b) to rezone land at Cooks Cove to encourage trade and technology uses, and to attract global-reach businesses which strengthen Sydney's international competitiveness, and
- (c) to capitalise on the physical proximity of the Cooks Cove site to Sydney International Airport and Port Botany to create trade-focused development, and
- (d) to facilitate master planning strategies that will promote the orderly development of public open space and trade and technology land uses, and
- (e) to identify appropriate development form and capacity for the Cooks Cove site, and
- (f) to provide open space for a range of recreational uses, and
- (g) to provide for good public access through the Cooks Cove site and along the Cooks River foreshores, and
- (h) to enhance the Botany Bay to Homebush Bay regional cycleway and pedestrian/cycle network, and
- (i) to protect environmentally significant wetlands and the habitat of the endangered Green and Golden Bell Frog, and
- (j) to establish vegetated riparian areas along the Cooks River and Muddy Creek

foreshores, and

- (k) to provide vegetated riparian buffers around the Marsh Street, Eve Street, Spring Creek and Landing Lights wetlands.

### **3 Land to which plan applies**

This plan applies to land at Cooks Cove within the suburb of Arncliffe shown edged heavy black on the Zoning Map, which is referred to in this plan as **the Cooks Cove site**.

### **4 Relationship to other environmental planning instruments**

- (1) In the event of an inconsistency between this plan and another environmental planning instrument, whether made before, on or after the date on which this plan was made, this plan prevails to the extent of the inconsistency, subject to section 36 (4) of the Act.
- (2), (3) (Repealed)
- (4) To remove any doubt, this plan does not affect the application of *State Environmental Planning Policy No 55—Remediation of Land* to land within the Cooks Cove site.

### **5 Consent authority**

Rockdale City Council is the consent authority for the purposes of this plan, except as provided otherwise by the Act.

### **6 Definitions**

- (1) Certain terms used in this plan are defined in the Dictionary at the end of this plan.
- (2) The list of contents and notes in this plan do not form part of this plan.

### **7 Complying and exempt development**

- (1) Development listed in Schedule 1 is complying development if—
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use as defined in section 106 of the Act.
- (2) Development of minimal environmental impact listed in Schedule 2 is exempt development, despite any other provision of this plan but subject to section 76 (3) (a) of the Act.
- (3) Development is complying or exempt development only if it complies with the development standards and other requirements applied to the development in Schedules 1 and 2, respectively.

- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Part 2 of Schedule 1.

## **8 Adoption of model provisions**

- (1) This plan adopts the *Environmental Planning and Assessment Model Provisions 1980*, except for Part 2 (Definitions) of those provisions.
- (2) For that purpose, references in those provisions to the local environmental plan adopting them are taken to be references to this plan.

## **9 Savings and transitional provisions**

Local environmental plans and deemed environmental planning instruments (including *Rockdale Local Environmental Plan 2000*) apply to development applications lodged but not finally determined before the commencement of this plan as if this plan had been exhibited but had not been made.

## **Part 2 Planning principles**

### **10 Planning principles for Cooks Cove**

Before granting consent to a development application relating to land within the Cooks Cove site, the consent authority must take into consideration the aims of this plan and also be satisfied that the proposed development will be consistent with such of the following planning principles as are relevant to the proposed development—

#### **(a) Role and land use activities**

Development should be carried out in a manner consistent with the principles of ecologically sustainable development.

Development of the Cooks Cove site is to encourage advanced technology and trade-focussed businesses that benefit directly from, or benefit from a synergy due to, the physical proximity of Cooks Cove to Sydney Airport and Port Botany, and the excellent transport network links to Sydney's CBD and the Advanced Technology Park at Eveleigh.

Transport management planning for the Cooks Cove site should optimise the use of public transport infrastructure, including a regular connection to both the adjacent railway stations at Wolli Creek and Sydney Airport International Terminal.

A vibrant community and safe public domain are to be created through encouraging active frontages along main streets and pedestrian routes.

#### **(b) Built form**

Building heights and building envelopes are to reflect good urban design principles and the natural attributes of Cooks Cove. Building heights should allow a reasonable

sharing of views from buildings, with lower buildings at the foreshore.

Buildings adjacent to the east-west runway approach paths should not interfere with the operation of Sydney Airport.

The height, form and orientation of buildings are to take into account visual impact from both land and water, as well as solar access, ventilation, wind impact, the amenity and privacy of hotel occupants and the need to conserve the habitat of threatened fauna.

The design of development should promote the public domain with a high quality of amenity and follow design practices that encourage energy conservation and the promotion of public transport.

Development is to provide for a high quality of landscaping and plantings of flora that are endemic to the area or that promote the regeneration of native species.

The depth of excavation for new development should minimise the disturbance of acid sulfate soils.

**(c) Public domain**

Foreshore, significant wetland areas and Green and Golden Bell Frog habitat areas are to be set aside for the maintenance and protection of wetland vegetation, mangrove communities and threatened fauna, with limited public access.

The foreshore is to be publicly accessible, and linked to public areas within and adjoining the Cooks Cove site.

Coordinated pedestrian and cycling networks and public transport services, which link into the regional Bay-to-Bay cycleway are to be provided throughout the Cooks Cove site. Networks are to link with the railway stations, areas adjoining the Cooks Cove site and the foreshore.

**(d) Accessibility, movement and parking**

Transport and traffic should be managed in accordance with a comprehensive plan that provides for the coordinated provision of public transport services and the staging of its provision.

Appropriate urban form, public transport infrastructure and services are to be provided that increase the use of public transport.

Development should accommodate users of all modes of transport, including public transport, cycling and walking.

The provision for vehicular movement is to be consistent with the development of a high-quality pedestrian environment within the street system.

A high degree of accessibility is to be provided to places within the Cooks Cove site for both able and disabled persons.

The provision of permanent and temporary parking facilities should be weighted to discourage use of cars and to encourage use of public transport.

**(e) Ecological and heritage issues**

Development within the Cooks Cove site is to make a significant contribution to ecological sustainability through promoting effective utilisation of public transport, reduced energy requirements, and the conservation and enhancement of natural resources.

Water and energy-efficient design criteria are to be promoted and soil erosion and sedimentation control measures implemented during remediation and construction phases.

Riparian areas with estuarine and native vegetation are to be established and maintained for the protection and enhancement of the Cooks River estuary and remaining natural areas.

Development should not have adverse impacts on the water quality of the Cooks River, Muddy Creek or wetlands.

The significant wetlands within the Cooks Cove site and along the foreshores of Cooks Cove are to be conserved, and the strategy for conservation is to include—

- (i) establishing adequate vegetated riparian buffers around the significant wetlands, including the Spring Street, Eve Street and Landing Lights wetlands, and
- (ii) establishing adequate vegetated corridors between Cooks River and Muddy Creek and the wetlands, and
- (iii) promoting the on-site recovery of the Green and Golden Bell Frog.

Conservation of the market garden within the Cooks Cove site is to be promoted.

## **Part 3 General land use controls**

### **11 Land use zones and explanation**

- (1) Land within the Cooks Cove site is within one of the following zones as shown on the Zoning Map—

Trade and Technology Zone

Special Uses Zone

Open Space Zone



- (2) The following Table shows, for land within a zone—
- (a) the objectives of the zone, and
  - (b) the development that may be carried out without development consent, and
  - (c) the development that may be carried out only with development consent, and
  - (d) the development that is prohibited.
- (3) Consent may be granted for development within a zone only if the consent authority is satisfied that the proposed development will achieve one or more of the stated objectives of the zone that are relevant to the proposed development.

Table

## **Trade and Technology Zone**

### **1 Objectives**

The objectives of this zone are—

- (a) to encourage economic activity and trade-focussed businesses that benefit directly from, or benefit from a synergy due to, the physical proximity of land within the zone to Sydney Airport and Port Botany, and the excellent transport network links to Sydney’s CBD and the Advanced Technology Park at Eveleigh, and
- (b) to promote the establishment of enterprises that create advanced technology or that manufacture products that utilise advanced technology, and
- (c) to promote export and other trade-related enterprises that are associated with trade logistics and distribution, just-in-time supply, the movement of perishables, time-sensitive goods processing, and the management of air and sea commerce, and
- (d) to provide facilities for the workforce by allowing a limited range of ancillary, retail and recreational uses that are ancillary and provide support to the dominant functions within the zone.

### **2 Development that is allowed**

Exempt development and development for the purpose of the following may be carried out **without development consent**—

landscape maintenance works (including tree planting, repaving and

replacement of street furniture); public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

advanced technology businesses; aids to navigation; car parks and car parking stations (if their only use is ordinarily incidental to other uses allowed within the zone); centre-based child care facilities; clubs; commercial support premises; community facilities; drainage; educational establishments; hotels; light industries; medical centres; motels; offices ancillary to trade-related enterprises; open space; passenger transport terminals; public transport infrastructure (not including car parks or car parking stations); recreation areas; recreation facilities; remediation of land; restaurants; roads; service stations; serviced apartments; shops; tourist facilities; trade-related enterprises; vehicle rental centres; warehouses.

### **3 Prohibited development**

Any development not listed in item 2.

## **Special Uses Zone**

### **1 Objectives**

The objectives of this zone are—

- (a) to accommodate existing special uses, including the South West Sydney Ocean Outfall Sewer and M5 corridor, and
- (b) to provide for the development of a transport corridor by the Roads and Traffic Authority or for other public transport infrastructure.

### **2 Development that is allowed**

Exempt development and development for the purpose of the following may be carried out **without development consent**—

aids to navigation; public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

drainage; public transport infrastructure; recreation areas; remediation of land; roads.

### **3 Prohibited development**

Any development not listed in item 2.

#### **Open Space Zone**

##### **1 Objectives**

The objectives of this zone are—

- (a) to provide for active sporting and recreational land uses and club facilities, and
- (b) to provide public access along the Cooks River and Muddy Creek foreshores, and
- (c) to protect significant wetland areas within the Cooks Cove site and along the Cooks River foreshores, and
- (d) to provide for facilities that are ancillary to the recreational use of public open space, and
- (e) to provide vegetated riparian areas to enhance biological connectivity along the Cooks River and Muddy Creek foreshores,
- (f) to protect and enhance the habitat of the Green and Golden Bell Frog established within Cooks Cove.

##### **2 Development that is allowed**

Exempt development and development for the purpose of the following may be carried out **without development consent**—

aids to navigation; gardening; landscape maintenance works (including tree planting, repaving and replacement of street furniture); other maintenance works; public utility undertakings.

Development for the purpose of the following and subdivision of land may be carried out **only with development consent**—

artworks; boat landing and hire facilities; boat ramps and berths; car parks; clubs; community facilities; drainage; identifying or interpretive signage ancillary to another use allowed on the site; kiosks; landscaping (except landscape maintenance works); outdoor eating areas (if linked to kiosks within the zone or restaurants in adjoining zones); recreation areas; recreation facilities; remediation of land; roads; other land uses

incidental or ancillary to the land uses lawfully carried out within the zone at the commencement of this plan.

### **3 Prohibited development**

Any development not listed in item 2.

## **Part 4 Special provisions**

### **12 Subdivision and demolition**

- (1) Land within the Cooks Cove site may be subdivided, but only with development consent.
- (2) Buildings or works on land within the Cooks Cove site may be demolished, but only with development consent.

### **13 Infrastructure provision**

- (1) Consent must not be granted to development of land within the Cooks Cove site until the Director-General has approved a comprehensive transport management plan after being satisfied that the following have agreed to the strategies of that management plan—
  - (a) the Roads and Traffic Authority,
  - (b) the Ministry of Transport,
  - (c) the State Rail Authority,
  - (d) the State Transit Authority.
- (2) The strategies of the transport management plan are to be aimed at—
  - (a) optimising the public transport mode split for people who will visit or work on, or otherwise use, the Cooks Cove site, and
  - (b) providing for an adequate public bus service for people who will visit or work on, or otherwise use, the Cooks Cove site, and
  - (c) establishing roads and related infrastructure of a standard adequate to provide public and private vehicular transport access to, and egress from, the Cooks Cove site from and to other land within the region, and
  - (d) providing temporary and permanent parking facilities that are timed and number-weighted to discourage use of cars and to encourage the shift to use of public transport.
- (3) Before approving the transport management plan, the Director-General must take into

consideration the views of—

- (a) the Council, Roads and Traffic Authority, Ministry of Transport, State Rail Authority and State Transit Authority, and
- (b) any other public authority that the Director-General considers relevant.

#### **14 Master plan**

- (1) **Requirement for master plan** Consent must not be granted for development of land within the Cooks Cove site unless—
  - (a) there is a master plan for the land that has been adopted by the Minister, and
  - (b) the consent authority has taken the master plan into consideration.
- (2) **Scope of master plans** A draft master plan should be prepared for the whole of the Cooks Cove site in consultation with the Director-General.
- (3) Despite subclause (2), a master plan for land within the Trade and Technology Zone may be prepared separately from a master plan for the remainder of the Cooks Cove site.
- (4) **Content of master plan** A draft master plan should illustrate and explain such of the following as are relevant to the land to which it applies—
  - (a) appropriate design principles, drawn from an analysis of the land to which the draft plan applies and its context,
  - (b) an indicative phasing of development,
  - (c) a proposed distribution of land uses,
  - (d) if it relates to land within the Trade and Technology Zone, proposals for satisfying the principles of good urban design in setting building envelopes, building heights and built form controls,
  - (e) appropriate height limits for development adjacent to Sydney Airport,
  - (f) if it relates to land within the Open Space Zone, a golf course layout plan, showing proposed locations for golf course fairways and player travel paths in relation to the wetlands and market gardens,
  - (g) a landscape concept plan, showing proposed public access paths through the site and along the foreshores,
  - (h) a proposed transport management plan, outlining a proposed timetable for infrastructure provision and servicing arrangements,
  - (i) proposals for pedestrian, cycle and road access and circulation networks,

- (j) proposed public transport routes and bus stop provision,
  - (k) proposed parking provision,
  - (l) a proposed subdivision pattern,
  - (m) proposed infrastructure provision,
  - (n) proposals for conservation, including an explanation of how any relevant guidelines or recommendations set out in a conservation management plan or statement of heritage impact approved by the Heritage Council of New South Wales may be implemented,
  - (o) proposals for the decontamination and remediation of sites,
  - (p) proposals for the provision of public facilities,
  - (q) recommendations for the provision of open space, its function and landscaping,
  - (r) any other matters stipulated by the Director-General.
- (5) **Adoption of master plan** A master plan is adopted by completing the following steps—
- (a) A draft master plan is to be submitted to the Director-General who must arrange for it to be publicly exhibited for comment.
  - (b) Before recommending that the Minister adopt or reject a draft master plan, the Director-General must take into consideration the appropriateness of the draft master plan's strategies, whether it complies with subclause (4), and any written submissions made about it to the Director-General during the period of its public exhibition.
  - (c) The Director-General may recommend that a draft master plan be adopted by the Minister without variations or that it be adopted with such variations as the Director-General considers appropriate.
  - (d) The Minister must seek the views of the Council about the draft master plan before the Minister adopts or rejects it.
  - (e) A draft master plan becomes a master plan when the Minister adopts it.
- (6) When a master plan is adopted, the Director-General must ensure that the following are notified of its adoption—
- (a) the owner of the land concerned,
  - (b) each public authority and community organisation whose views were sought,
  - (c) each person who made a written submission about the plan to the Director-

General during the exhibition period.

- (7) **Amendment or repeal of master plan** The following provisions apply to amendment or repeal of a master plan—
- (a) An adopted master plan may be amended or repealed by a subsequent master plan adopted by the Minister in accordance with this clause.
  - (b) Before adopting an amending master plan, the Minister must take into consideration any development consents that have been granted for the land concerned and, in particular, the gross floor area of buildings on which a trade or technology use is allowed by those consents.

## 15 Floor area controls

- (1) Consent must not be granted for development of land within the Trade and Technology Zone that would result in the following—
- (a) a total of more than of 270,000 square metres of gross floor area (whether in one or more buildings) being created within that zone,
  - (b) a total of more than 5,000 square metres of leasable floor space within that zone (whether in one or more buildings, but excluding public access areas such as arcades and amenities, general loading docks and car parking areas) being used exclusively for the purpose of commercial support premises, shops and restaurants,
  - (c) a total of more than 15,000 square metres of leasable floor space within that zone (whether in one or more buildings, but excluding public access areas such as arcades and amenities, general loading docks and car parking areas) being used exclusively for the purpose of hotels or serviced apartments,
  - (d) a total of more than 5,000 square metres of leasable floor space within that zone (whether in one or more buildings) being used exclusively for the purpose of serviced offices, being offices the use of which is not ancillary to another lawful land use and that are hired on a casual basis.
- (2) Consent must not be granted for development of land within the Trade and Technology Zone that would result in—
- (a) less than one quarter of the total gross floor area within that zone being developed for the purpose of trade-related enterprises, or
  - (b) less than one quarter of the total gross floor area within that zone being developed for the purpose of advanced technology businesses.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a requirement made by subclause (1) or (2).

## **16 Height of buildings**

- (1) A building within the Cooks Cove site must not exceed 6 storeys.
- (2) However—
  - (a) a building within 120 metres of the Cooks River must not exceed 5 storeys, and
  - (b) subject to paragraph (a), one building on land within the Trade and Technology Zone that is situated no closer than 10 metres from the zone boundary may have a height that does not exceed 11 storeys.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to a requirement made by subclause (1) or (2).

## **17 Environmental management—management plans**

- (1) Consent must not be granted for any development on land within the Cooks Cove site until after the consent authority has taken into consideration—
  - (a) a wetlands environmental management plan that has been served on the Director-General of the Department of Environment and Conservation, Director-General of NSW Fisheries, Director-General of the Department of Infrastructure, Planning and Natural Resources and Secretary of the Department of the Environment and Heritage of the Commonwealth and any written comments made to the consent authority about that plan by any of those persons within 40 days after the date of service on the person, and
  - (b) a soil and water management plan that has been served on the same persons and any written comments made to the consent authority about that plan by any of those persons within 40 days after the date of service on the person, and
  - (c) a Green and Golden Bell Frog management plan that has been served on the Director-General of the Department of Environment and Conservation, which identifies areas of its habitat and outlines proposals for mechanisms to be introduced to create, enhance and manage habitat areas for the species, and any written comments made to the consent authority about that plan by that Director-General within 40 days after the date of service.
- (2) In addition, consent must not be granted for any development on land within the Cooks Cove site until after the wetlands environmental management plan and the soil and water management plan—
  - (a) have been publicly exhibited with a request for comments within a specified time, and
  - (b) the consent authority has taken into consideration any written comments made to the consent authority about those plans during that specified time.



- (3) The wetlands environmental management plan must include a description of the location of existing and proposed wetlands, including areas considered to be significant, and proposals about the following—
  - (a) implementation of wetlands environmental management principles,
  - (b) protection of threatened species, populations and ecological communities,
  - (c) protection of aquatic and fish nursery habitats,
  - (d) protection of migrating bird populations and their habitats,
  - (e) the interrelationship of the golf course and any buffer or treatment required to prevent or reduce run-off and nutrient loads from the fairways entering the wetlands,
  - (f) the impact of the proposed development on tidal flows inundating the wetlands,
  - (g) the impact of the development on the ecological significance of the Cooks River and Muddy Creek and the wetlands within the site,
  - (h) measures to minimise adverse environmental impacts of development, including the provision of—
    - (i) compensatory wetland habitats, and
    - (ii) vegetated riparian buffers around wetlands to mitigate the impact of human disturbance on native fauna, and
    - (iii) vegetated riparian buffers around wetlands to enhance appropriate terrestrial habitat,
  - (i) establishment in riparian areas of appropriate local native plant species propagated, where possible, from locally genetic stock.
- (4) The soil and water management plan must address the following—
  - (a) the likely impacts of development on water quality during and after construction,
  - (b) the utilisation of effective erosion and sediment control measures in accordance with the State government guidelines entitled *Managing urban stormwater: soils and construction* (Department of Housing, 3rd ed., 1998) and consistently with any relevant industry standards, especially in relation to the golf course construction and operation,
  - (c) the recommendations of the Green and Golden Bell Frog management plan and the wetlands environmental management plan.
- (5) The Green and Golden Bell Frog management plan must identify the location of

existing and proposed Green and Golden Bell Frog habitats, including areas considered to be significant, and include proposals covering the following—

- (a) protection of the Green and Golden Bell Frog,
- (b) protection of the Green and Golden Bell Frog habitat,
- (c) how existing and proposed wetlands relate to protection of the Green and Golden Bell Frog and its habitat,
- (d) how stormwater management processes relate to protection of the Green and Golden Bell Frog and its habitat,
- (e) how development and management of the golf course and open space areas, management of public access and proposed development within the Trade and Technology Zone relate to protection of the Green and Golden Bell Frog and its habitat,
- (f) management of the direct and indirect impacts of the proposed development on the protection of the Green and Golden Bell Frog and its habitat,
- (g) measures to mitigate adverse environmental impacts of the proposed development, including habitat enhancement and the provision of compensatory habitat for the Green and Golden Bell Frog,
- (h) measures to appropriately manage habitat areas in both the short and long term.

## **18 Environmental management—special requirements**

Before granting consent to proposed development, the consent authority must, to the extent (if any) to which the following are relevant to the proposed development, be satisfied that—

- (a) use of the Cooks Cove site will incorporate stormwater management measures that will result in an overall improvement to the quality of water entering Muddy Creek and the Cooks River from the Cooks Cove site, especially in relation to the golf course construction and operation, and
- (b) water usage on, and the importation of potable water on to, the Cooks Cove site will be minimised, especially in relation to the golf course operations. (The consent authority is to prefer the use of recycled or non-potable sources for golf course watering.), and
- (c) proposed development is designed and carried out so as to ensure that there will be minimal impact on the water table level and that adverse salinity impacts will not result, and
- (d) drainage lines within the Open Space Zone will be constructed and vegetated so that

they approximate as natural a state as possible (If the proposed development involves modification of existing drainage lines to accommodate increased stormwater run-off from urban areas, this should be done in a manner that maximises the conservation of indigenous flora in and around the drainage lines.), and

- (e) the proposed development will be carried out in a manner that minimises flood risk to both people and property, but has due regard to environmental considerations, and
- (f) changes in local flow regimes due to development will be minimised, and
- (g) gross pollutant traps will be planned as components of a comprehensive stormwater treatment plan, will be located outside the riparian areas, and will treat water prior to its discharge into riparian areas and watercourses so as to arrest sediment and litter, so that there is no increase in sediment and litter entering the Cooks River or Muddy Creek as a result of development.

## **19 Development of flood prone land**

- (1) This clause applies to land in the vicinity of the Cooks River and Muddy Creek defined as ***flood prone land*** in the latest appropriate study adopted by the consent authority for the purposes of this clause.
- (2) Before granting consent for development of land to which this clause applies, the consent authority must consider—
  - (a) the impact of the proposed development on flood flows and whether any compensatory works should be provided, and
  - (b) if land filling is involved, whether any compensatory flood storage or other flood mitigation works should be provided, and
  - (c) the impact of the development on the ecological significance of the Cooks River and Muddy Creek and their wetlands and measures that can minimise any adverse impact, such as the provision of compensatory wetland habitats.

## **20 Management of open space**

Prior to the granting of consent for any development within the Open Space Zone, the consent authority must consider a plan of management prepared under the provisions of the [Crown Land Management Act 2016](#) for all land zoned Open Space or proposed to be accessible to the public within the Cooks Cove site.

## **21 Development of land near Sydney Airport runways**

Consent must not be granted to any proposed development on land within the Cooks Cove site if it is of a kind regulated by the Commonwealth [Civil Aviation \(Buildings Control\) Regulations 1988](#) or [Airports \(Protection of Airspace\) Regulations 1996](#) unless a copy of the development application has been referred to Sydney Airports Corporation

Limited.

## **22 Heritage protection**

- (1) Heritage items are identified in Schedule 3.
- (2) Consent must not be granted for development of, or in the vicinity of, a heritage item unless the consent authority has made an assessment of—
  - (a) the effect the carrying out of that development will have on the heritage significance of the item and its setting, and
  - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, archaeological, architectural, natural or aesthetic significance of the item and its site, and
  - (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained.
- (3) A person must not, in respect of a building, place, work or relic that is a heritage item—
  - (a) demolish, alter, renovate or extend the item, or
  - (b) damage or despoil the item or any part of the item, or
  - (c) excavate any land for the purpose of exposing or removing the item, or
  - (d) erect a building on the land on which the building, work or relic is situated or the land that comprises the place, or
  - (e) subdivide the land on which the building, work or relic is situated or the land that comprises the place,except with the consent of the consent authority.
- (4) The consent authority may grant consent to development involving the excavation or filling of land, or the erection (involving disturbance of land) or demolition of buildings on land, where the land is the site of a heritage item that is of non-Aboriginal heritage significance, only if it has considered a statement of heritage impact or a conservation plan relating to the item and the proposed development.

## **23 Acid sulfate soils**

- (1) Development that is likely to result in the disturbance of more than one tonne of soil or to lower the water table in areas where acid sulfate soils exist may be carried out only with development consent despite the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan.

- (2) Before granting a consent required by this clause, the consent authority must consider—
  - (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines* (ASSAG), and
  - (b) the likelihood of the proposed development resulting in the discharge of acid waters, and
  - (c) (Repealed)
- (3) (Repealed)

#### **24 Acquisition of land zoned Special Uses**

- (1) The owner of land within the Special Uses Zone may, by notice in writing served on the Roads and Traffic Authority (**the RTA**), require the RTA to acquire the land.
- (2) On receipt of the notice, the RTA is to acquire the land.
- (3) Subclause (2) does not apply if—
  - (a) the land might reasonably be required to be dedicated as a condition of development consent pursuant to Division 6 of Part 4 of the Act, or
  - (b) the land is held by a public authority for use for public roads or public transport.

#### **25 Additional documentation for development in Trade and Technology Zone**

- (1) Consent must not be granted for development within the Trade and Technology Zone unless the consent authority has taken into consideration a written statement substantiating how the proposed development will achieve one or more of the stated objectives of the zone that are relevant to the proposed development.
- (2) Subclause (1) does not apply if, in the opinion of the consent authority, the development proposed is minor in nature or would not significantly affect the achievement of a zone objective.

#### **26 Development allowed on certain land for recreation facility**

- (1) This clause applies to the following land at Arncliffe identified as “Area 1” on the [Additional Permitted Uses Map](#)—
  - (a) part of Lot 18, DP 1069479,
  - (b) part of Lot 100, DP 1228008,
  - (c) part of Lot 1, DP 576148,

(d) part of Lot 100, DP 1133869.

- (2) Development for the purpose of a recreation facility may be carried out with development consent.
- (3) This clause has effect despite anything to the contrary in the Table to Part 3 or any other provision of this Plan.

## **27 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 52 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).

## **Schedule 1 Complying development**

(Clause 7)

### **Part 1 Instances of complying development**

Development listed in this Part is complying development, but only if—

- (a) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
- (b) it does not contravene any condition of a development consent applying to the land, and
- (c) it meets the outcomes specified for it in this Part.

**Development**

**Outcomes**

**1 Different building uses; carrying out of building alterations**

- A non-prohibited use of a building as an office or a shop resulting from a change of a lawful use of the building as a shop or an office
- Internal alterations to buildings being lawfully used for shops or offices, if the alterations do not increase the total floor area of the building
- Non-structural alterations to the exterior of a building, such as painting, plastering, cement rendering, cladding, attaching fittings and decorative work
- Interior alterations to a building that do not affect the load-bearing capacity of any load-bearing component of the building

No increase to the total floor area of the building  
 No more than 500 square metres of floor area are changed from an office to a shop  
 No increase in total permissible floor area for shops within the precinct

**2 Subdivision**

That enables implementation of an adopted master plan and will not result in any building contravening the deemed-to-satisfy provisions of the *Building Code of Australia*

The subdivision must achieve one or more of the following only—

- widening of a public road
- an adjustment of a boundary between lots that does not result in an increased number of lots
- correcting an encroachment on a lot
- consolidating lots

**3 Temporary buildings**

The erection of a building and its use for a period not exceeding 3 years specified in the application for a complying development certificate, being a building that is not used for the storage or handling of inflammable materials

Maximum height of the building is 1 storey  
 Building is set back from every boundary of the lot by a minimum of 3 metres

## Part 2 Complying development certificate conditions

### 1 Before you begin work

- (1) Two days before any site works, building or demolition begins, the applicant must—
  - (a) forward a Notice of Commencement of Work and Appointment of Principal Certifying Authority to the Council, and
  - (b) notify the adjoining owners that work will commence.
- (2) Before any site works, building or demolition begins, the applicant must—
  - (a) notify the consent authority of the name, address, phone number and licence number of the builder, and
  - (b) erect a sign at the front of the property with the builder's name, licence number and site address and the number of the certificate of compliance, and
  - (c) provide a temporary on-site toilet, and
  - (d) protect and support any neighbouring buildings, and
  - (e) protect any public place from obstruction or inconvenience due to the carrying out of the development, and
  - (f) prevent any substance from falling onto a public place, and
  - (g) follow any other conditions prescribed by the *Environmental Planning and Assessment Regulation 2000*.
- (3) This item does not impose a requirement on an applicant if the builder complies with it.

### 2 Inspections during construction

The applicant must notify either the Council or an accredited certifier in advance (at least 48 hours in advance in writing or 24 hours by phone) of the time to inspect the following—

- (a) erosion controls, site works and site setout, before building starts,
- (b) placement of piers or foundation before placing footings, and steel reinforcing before pouring concrete,
- (c) framework of structure before lining or cladding is fixed,
- (d) stormwater drainage and on-site detention before backfilling,
- (e) wet areas treated before lining or tiling.



### **3 Hours of work**

Any building work must be carried out between 7.00 am and 6.00 pm on Monday to Friday and 8.00 am to 5.00 pm on Saturday, but not on Sundays or public holidays.

### **4 Survey certificate**

A survey certificate must be given to the principal certifying authority at the following stages—

- (a) on completion of the floor slab framework before concrete is poured, detailing the location of the structure to the boundaries,
- (b) at completion of the lowest floor, confirming that levels are in accordance with the certificate (and the levels must relate to the datum shown on the certificate).

## **Schedule 2 Exempt development**

(Clause 7)

The development listed in this Schedule is exempt development, but only if any structure erected or altered as a consequence of the development—

- (a) will comply with the deemed-to-satisfy provisions of the *Building Code of Australia*, and
- (b) will not obstruct drainage of the site, and
- (c) will not restrict any vehicular or pedestrian access to or from the site, and
- (d) will be at least 1 metre from any easement or public sewer main, and
- (e) will not require a tree to be removed, and
- (f) will comply with the recommendations of the Green and Golden Bell Frog management plan and the wetlands environmental management plan.

### **1 Advertising structures and displays**

Erection of an advertising structure and display of an advertisement on it, or the display of an advertisement that is not on an advertising structure, in any of the following cases—

- (a) The advertisement and any structure are not visible from outside the site on which they are displayed.
- (b) The advertisement is behind the glass line of a shop window.
- (c) The advertisement is a temporary advertisement for a social, cultural or recreational event that is displayed no more than 28 days before the event and is removed within 14 days after the event.
- (d) The advertisement is a public notice displayed by a public authority giving information about a service.

- (e) The advertisement is a real estate sign advertising that the premises on which it is displayed are for sale or lease, and the advertisement and any structure together have a maximum area of 4.5 square metres in the Trade and Technology Zone.
- (f) The advertisement replaces one lawfully displayed on the same structure.
- (g) The advertisement displays a message relating to the premises on which it is situated and the advertisement and the structure (if any) together have a maximum area of—
  - (i) 30% of the front elevation of any building on which it is displayed in the Trade and Technology Zone, and
  - (ii) a maximum height of either 4.6 metres above ground level or the height of a first floor window sill and, if suspended from an awning along a public road, the advertisement is not lower than 2.6 metres above ground level.

## **2 Ancillary development**

Development (such as landscaping, gardening, paving or the erection of minor structures) that is ordinarily incidental or ancillary either to a use allowed by a development consent or to a lawful existing use (as defined in section 106 of the Act), but only if—

- (a) any ancillary structure is erected at least 1 metre from each boundary of the site and extends no more than 3 metres above natural ground level, and
- (b) any ancillary structure, paving or hard surface area covers not more than 25 square metres, and
- (c) the development does not involve excavation beyond 600 millimetres below natural ground level, and
- (d) it does not involve handling, storing or using hazardous chemicals or materials and does not release hazardous chemicals or any pollutants into the environment, and
- (e) it does not involve a display of an advertisement.

## **3 Demolition**

Demolition, that is carried out in accordance with AS 2601—2001, *Demolition of structures*, of—

- (a) any structure the erection of which is identified as being exempt development by this plan, or
- (b) a structure covering an area of not more than 25 square metres.

## **4 Fences**

Erection of boundary fences that comply with any relevant covenant and Council policy and—

- (a) are no more than 1.8 metres high if located behind the building line, but do not include any masonry construction over 900 millimetres above ground level, or
- (b) are no more than 900 millimetres high if forward of the building line.

## 5 Flagpoles

Erection of flagpoles not more than 6 metres high that are structurally adequate, but only one per site.

## Schedule 3 Heritage items

(Clause 22 and Dictionary)

212 West Botany Street, Banksia Lot 1, DP 514811

Market garden

## Dictionary

(Clause 6 (1))

**Additional Permitted Uses Map** means the map marked “[Sydney Regional Environmental Plan No 33—Cooks Cove—Additional Permitted Uses Map](#)”.

**advanced technology business** means research and development or a business or activity that consists of, or is directly related to, the carrying out of research into, the manufacture, improvement, production, processing, assembly, marketing or sale of, or the provision of information services about or of other product or administrative support services related to, any of the following—

- (a) electronic and micro-electronic systems, goods and components,
- (b) information technology, computer software or hardware,
- (c) instrumentation or instruments,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) telecommunications services, systems or components,
- (f) other goods, systems or components intended for use in science and technology,
- (g) advanced technology relating to the provision or distribution of energy,
- (h) technology promoting ecologically sustainable practices, such as remediation of land.

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

**alter**, in relation to a heritage item, means—

- (a) make structural changes to the outside of the heritage item, building or work,
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes resulting from the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

**centre-based child care facility** has the same meaning as in the standard instrument for a local environmental plan prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**club** means a building or place that is used for the gathering of persons for social, literary, political, sporting, athletic or other lawful purposes and that is or is intended to be 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 Dictionary or a building or place used for a land use elsewhere specifically defined in this Dictionary.

**commercial support premises** means a building or place used as an office or for other business or commercial purposes such as a bank, building society or other building or a place in which business-orientated support services, such as photocopying, office services and supplies are provided.

**community facility** means a building or place owned or controlled by the Council, a public authority or a religious organisation, or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community, and used for a community purpose or for the purposes of the organisation concerned.

**complying development** is identified in clause 7.

**conservation management plan** means a document, approved by the New South Wales Heritage Council, including diagrams, establishing the heritage significance of a heritage item and identifying the conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**contaminated land** has the same meaning as in Part 7A of the Act.

**demolition**, in relation to a heritage item, building, work, relic or place, means the damaging, defacing, destruction, pulling down or removal of a heritage item, building, work, relic or place, in whole or in part.

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

**Director-General** has the same meaning as in the Act.

**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.

**educational establishment** has the same meaning as in the standard instrument for a local environmental plan prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**exempt development** is identified in clause 7.

**flood prone land** means land that is susceptible to flooding by a 1% Annual Exceedance Probability flood event.

**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 inner face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, but excluding—

- (a) columns, fin walls, shade devices, and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and associated plant rooms, and ancillary storage space and vertical air conditioning ducts, and
- (c) such car, coach and bicycle parking as is required to comply with any development control plan and any internal access to that parking, and
- (d) space for the loading and unloading of goods, and any waste management areas, and
- (e) common or public areas, including arcades and circulation space.

**heritage impact statement** means a statement which identifies the heritage significance of a heritage item or conservation area, assesses the impact that proposed development will have on this significance and details the measures proposed to minimise this impact.

**heritage item** means a building, work, relic, tree or place identified as a heritage item and described in Schedule 3.

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

**hotel** means premises, licensed under the [Liquor Act 1982](#) to sell liquor, that provide accommodation for guests which is rented or hired on a short-term basis without a residential tenancy agreement within the meaning of the [Residential Tenancies Act 1987](#).

**kiosk** means a structure used for the provision of food and drink for the refreshment of users of the open space in which it is situated. The use must not be the dominant use of the open space.

**leasable floor space** of a building means the gross floor area of the building, excluding public access areas such as arcades and amenities, general loading docks and car parking areas.

**map** means a map deposited in the office of the Department, a copy of which is deposited in the office of the Council.

**master plan** means a master plan adopted by the Minister under clause 14.

**medical centre** means a building or place used for the purpose of providing professional health care services (including preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

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

**motel** means a building (other than a boarding house or serviced apartments) primarily used for the overnight accommodation of travellers and the vehicles used by them, whether or not the building is also used for the provision of meals to those travellers or the general public.

**passenger transport terminal** means any building or place used for the assembly and dispersal of passengers travelling by any form of passenger transport, and includes any facilities required for parking, manoeuvring, storage or routine servicing of any vehicle used to provide a passenger transport service.

**place of assembly** means a building or place used for functions, conferences, theatre, cinema, concerts, dances or any other similar thing, whether it is used for the purpose of gain or not, but does not include a place of public worship 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, instruction or religious training.

**public transport facility** means a building or place used for the purpose of providing passenger transport facilities to the general public, whether or not those facilities are provided by a public authority.

**public utility undertaking** means any services or facilities carried on by, or under the authority of, any Commonwealth or State government department or agency, or pursuant to any Commonwealth or State Act, for the purpose of providing—

- (a) railway, light railway, road, water or air transport or facilities, or wharf or river services or facilities, or
- (b) sewerage or drainage services, or
- (c) water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities.

**recreation area** means—

- (a) a children's playground, or
  - (b) an area used for sporting activities, or
  - (c) an area used to provide for the physical, cultural or intellectual welfare of the community,
- but does not include racecourses or showgrounds.

**recreation facility** means a building or place used exclusively for sporting or leisure activities, whether operating for the purpose of gain or not.

**remediation of land** means—

- (a) removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or
- (b) eliminating or reducing any hazard arising from the contamination of any land (including by preventing the entry of persons or animals onto the land).

**research and development** means activities carried out on a commercial basis that are aimed at advancing scientific knowledge for the purpose of applying it in an industry or aimed at creating new or improved materials, products, devices, processes or services (or at both advancing scientific knowledge for that purpose and creating any of those things), but only if the activities concerned—

- (a) meet the research and development criteria of the Industry Research and Development Board of the Commonwealth for the purposes of a taxation concession under the *Income Tax Assessment*

[Act 1936](#) of the Commonwealth, or

- (b) are being funded wholly or partly by a Commonwealth or State government research and development grant.

**restaurant** means a building or place used for the provision of food or drink (or both), whether or not for consumption on the premises, or for takeaway.

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

- (a) the hiring of trailers,
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles,
- (c) the washing and greasing of motor vehicles,
- (d) the repairing and servicing of motor vehicles (other than repairing or servicing involving body building, panel beating or spray painting).

**serviced apartment** means a self-contained dwelling (in a building containing three or more self-contained dwellings) which is cleaned or serviced by the owner or manager of the building (or the agent of the owner or manager), and which provides short-term accommodation for persons who have their principal place of residence elsewhere, but does not include a backpackers' hostel, boarding house, bed and breakfast establishment or private hotel.

**shop** means a building or place used for 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 Dictionary.

**storey** means—

- (a) the space between two floors, or
- (b) the space between any floor and its ceiling or roof above, or
- (c) building foundation areas, garages, workshops, storerooms and the like, where the height between finished ground level and the top of the floor above is 1.5 metres or more.

A storey that exceeds 4 metres in height (otherwise than in an entry foyer or a part of the building used for exhibition space) is counted as two storeys, except in the case of a warehouse.

**subdivision of land** has the same meaning as in the Act.

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

**the Cooks Cove site** means the land to which this plan applies.

**the Council** means Rockdale City Council.

**tourist facility** means an establishment providing holiday accommodation, convention or exhibition facilities, or both, and may include—

- (a) hotels, motels or serviced apartments, and
- (b) conference, convention or trade exhibition facilities, and
- (c) restaurants and function rooms.

**trade-related enterprise** means a business or government activity directly related to the carrying out of air, land or sea commerce, air passenger services or other trade, including the import or export of advanced technology goods or services, trade-related warehousing, customs agencies, freight forwarding, trade logistics and distribution, and time-sensitive goods processing.

**wetlands** means either naturally occurring or constructed areas that support wetland vegetation or fauna.

**vehicle rental centre** means a building or premises used to rent out vehicles and service those vehicles.

**Zoning Map** means the map marked “*Sydney Regional Environmental Plan No 33—Cooks Cove—Zoning Map*”.