

# Sydney Regional Environmental Plan No 30—St Marys (2001 EPI 16)

[2001-16]



New South Wales

## Status Information

### Currency of version

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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](#)).

- **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 9 October 2020

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New South Wales

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# Sydney Regional Environmental Plan No 30—St Marys (2001 EPI 16)



New South Wales

## Part 1 Introduction

### 1 Name of plan

This plan may be called *Sydney Regional Environmental Plan No 30—St Marys*.

### 2 Area covered by this plan

- (1) This plan applies to certain land in the region declared under the Act that is known as the Sydney Region and is within the Blacktown City and Penrith City local government areas.
- (2) The location and boundaries of the land are shown on the Zoning Map.
- (3) Despite subclauses (1) and (2), this plan does not apply to land referred to on the Zoning Map as “DEFERRED MATTER”.

### 3 Aims of this plan

The aims of this plan are to—

- (a) support the *St Marys Environmental Planning Strategy, 2000* of the Department of Urban Affairs and Planning by providing a framework for the sustainable development and management of the land to which this plan applies, and
- (b) rezone certain land for urban and employment-generating development, and
- (c) rezone land for conservation purposes and conserve the significant heritage values of the land to which this plan applies, and
- (d) ensure that urban development on the land achieves desirable environmental, social and economic outcomes, and
- (e) provide opportunities for recreation facilities that meet the needs of the regional and local community, and
- (f) ensure that development of the land to which this plan applies is integrated with

established surrounding areas.

#### **4 Effect of 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 takes effect), this plan prevails to the extent of the inconsistency, subject to section 36 of the Act.
- (2) *Penrith Local Environmental Plan No 201 (Rural Lands)* and *Blacktown Local Environmental Plan 1988* do not apply to the land to which this plan applies.
- (3) *Penrith Local Environmental Plan No 255—Exempt and Complying Development* does not apply to the land to which this plan applies, except as provided by clause 43 (Exempt and complying development) of this plan.
- (4) (Repealed)

#### **5 Interpretation and application of this plan**

- (1) Words used in this plan that are defined in Schedule 1 have the meanings given to them in that Schedule.
- (2) Notes in this plan and the list of contents of this plan are not part of this plan.
- (3) Nothing in this plan prohibits, restricts, requires development consent for or allows a condition of development consent to prohibit or restrict—
  - (a) the carrying out of any development listed in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980* (the references to public utility undertakings in which are, for the purposes of this paragraph, taken to be references to utility undertakings, as defined in Schedule 1 to this plan), or
  - (b) the use of existing buildings of the Crown by the Crown.

#### **6 Development structure**

The general pattern of development proposed for the land to which this plan applies is shown on the Structure Plan.

## **Part 2 Development staging**

#### **7 Minister to declare land as a release area**

- (1) The Minister may, by notice in writing given to the relevant council for the land concerned, declare a precinct to be a release area.
- (2) The Minister is not to make a declaration under this clause unless the following matters have been considered—

- (a) the views, if any, of the relevant council and of such other public authorities as the Minister may decide to consult, provided to the Minister within 40 days of the Department having requested them (which period may have commenced or expired before the commencement of this plan),
- (b) the degree to which the requirements of any development agreement that relates to any previous release areas comprised of land to which this plan applies have been met,
- (c) the degree to which development in any previous release area has achieved the performance objectives contained in Part 5 of this plan.

**Note—**

Clause 274 of the *Environmental Planning and Assessment Regulation 2000* provides that a person cannot apply to a consent authority for consent to carry out development on land zoned “Employment” or “Urban” under this plan unless it is, or is part of, land declared to be a release area by the Minister. This restriction does not apply to development referred to in clause 20 (3) or (4) or 48.

## **Part 3 Precinct plans**

### **8 What is a precinct plan?**

A precinct plan is a document (consisting of written information, maps and diagrams) containing provisions relating to the development of land within the precinct to which it applies.

### **9 Preparing draft precinct plans**

- (1) A draft precinct plan may be prepared by or on behalf of the relevant council, an owner of land within the precinct, or a lessee of land within the precinct with the consent of the owner of the land.
- (2) The first precinct plan for a release area must apply to all of the land within the release area (being all of the land within the precinct concerned).

### **10 Content of draft precinct plans**

- (1) Each draft precinct plan is to illustrate a proposed pattern of development for land within the precinct and explain how each proposed development type and form meets the requirements of this plan and the environmental planning strategy.
- (2) A draft precinct plan is to include proposals for, and information about, the following, for the land to which it applies—
  - (a) phasing of development, in general terms,
  - (b) distribution of major land uses, including location of retail centres, non-residential uses and areas for higher density housing,

- (c) trunk public transport routes, pedestrian, cycle and road access and circulation networks, and flood evacuation routes,
- (d) an indicative subdivision road pattern,
- (e) drainage systems and flooding issues, including an assessment of the risk of flooding and damage likely to result,
- (f) location of public facilities,
- (g) location of open space, its function and landscaping intent,
- (h) management of the potential impacts of development on the existing physical and environmental characteristics of the land, including significant native flora and fauna habitat and soil characteristics. The information is to include specific details of those characteristics and to explain how development should be planned and configured to minimise adverse impacts on areas of significance for biodiversity,
- (i) guidelines for the design, siting and construction of buildings,
- (j) management within the precinct of Aboriginal heritage relating to the land to which this plan applies,
- (k) any items of non-Aboriginal heritage significance or of archaeological significance on land to which this plan applies and any potential impacts on these,
- (l) design principles drawn from an analysis of the land to which this plan applies and its context,
- (m) the impact of the proposed development on any adjoining land that is zoned Regional Park or Regional Open Space,
- (n) any other major infrastructure, such as above- or below-ground trunk electrical systems, trunk sewerage or water supply lines,
- (o) management of remnant contamination risk,
- (p) any other matter required to be addressed by the relevant council or notified to the relevant council by the Minister.

## **11 Matters to be considered in assessing precinct plans**

A precinct plan must not be approved unless the relevant council—

- (a) has sent a copy of a draft of the plan to the Director-General of National Parks and Wildlife, any public authority which (in the opinion of the relevant council) could be required to provide facilities or services to support the development of the land to which it applies and any public authority which (in the opinion of the relevant council) has a responsibility relevant to the development of that land and considered all

responses received within 28 days of the copy being sent, and

- (b) is satisfied that the plan is consistent with the performance objectives, zone objectives and requirements prescribed by this plan and with the proposed development controls contained in the environmental planning strategy, and

**Editorial note—**

The *St Marys Environmental Planning Strategy, 2000* has been structured so that the matters to be considered in assessing precinct plans and development applications are clearly identified within each relevant Chapter under the heading “Development controls”.

- (c) is satisfied that the plan is substantially in accordance with the Structure Plan, and
- (d) has considered any potential impacts on items of Aboriginal heritage, including known Aboriginal relics and places, and land of archaeological significance to which this plan applies, and
- (e) is satisfied that the plan is consistent with the terms of any relevant development agreement, and
- (f) is satisfied that any proposal for retail or commercial development included in the plan will not undermine the regional and district retail and commercial centre hierarchy.

**11A Additional matters to be considered in relation to Ninth Avenue**

The relevant council is not to approve a precinct plan that contains any proposal for development, other than for the purpose of a public road, that would enable direct vehicular access to Ninth Avenue unless it has considered the following matters—

- (a) the capacity of Ninth Avenue to accommodate any vehicular traffic resulting from the proposed development,
- (b) the effect any such vehicular traffic may have on the existing road hierarchy in the vicinity of the proposed development,
- (c) any adverse impact of the proposed development on the rural character of Ninth Avenue or its surrounds.

**12 Submission of draft precinct plan for adoption**

- (1) A draft precinct plan that is not prepared by the relevant council is to be submitted to the relevant council for adoption.
- (2) The first draft precinct plan for each release area should be prepared and submitted by the land owner within 12 months of the declaration of the release area.
- (3) If the first draft precinct plan has not been submitted within 12 months of the declaration of the first release area, the relevant council may prepare the first draft precinct plan.

### **13 Additional information**

The relevant council may request that additional information be provided before a draft precinct plan is placed on public exhibition in accordance with clause 14.

### **14 Consultation and exhibition**

- (1) Clauses 18, 19 and 20 of the *Environmental Planning and Assessment Regulation 2000* apply to a draft precinct plan in the same way as they apply to a draft development control plan.
- (2) The relevant council must provide the land owner with a summary of matters raised in submissions made in response to exhibition within 28 days of the end of the exhibition of a draft precinct plan. The council may provide the land owner with comments on the matters raised in submissions.

### **15 Adoption of draft precinct plan**

- (1) The relevant council may—
  - (a) adopt a draft precinct plan in the form in which it was publicly exhibited, or
  - (b) adopt a draft precinct plan with amendments as agreed to by the proponent of the draft precinct plan or as proposed by the proponent in response to submissions, or
  - (c) adopt a draft precinct plan with amendments not agreed to by the proponent, but only with the agreement of the Minister, or
  - (d) subject to subclause (2), refuse to adopt a draft precinct plan.
- (2) The relevant council must not refuse to adopt a draft precinct plan which has been submitted by or on behalf of the owner of land within the precinct unless it has obtained the agreement of the Minister to the refusal.
- (3) If the relevant council has not adopted a draft precinct plan within 6 months after the date on which the original form of the draft precinct plan was submitted to it by the land owner for adoption, the Minister may adopt the draft precinct plan, with or without such amendments as the Minister considers appropriate.
- (4) The Minister must seek the views of the relevant council concerning the draft precinct plan before the Minister adopts it.
- (5) A precinct plan may be adopted only in respect of land that has been declared a release area under Part 2.

### **16 Effect of adoption of draft precinct plan**

A draft precinct plan becomes a precinct plan for the purposes of this plan on its adoption by the relevant council or the Minister.

### **17 Amendment of precinct plans**

A precinct plan may be amended or revoked by a subsequent precinct plan which may apply to all or part of the land in a release area.

### **18 Availability of precinct plans**

A copy of a precinct plan must be available for inspection at the office of the relevant council during ordinary office hours.

## **Part 4 Development applications**

### **19 Consent authority**

- (1) For the purposes of this plan, the consent authority for development applications relating to land to which this plan applies is the Council of the City of Penrith, if the land is within the City of Penrith, or the Council of the City of Blacktown, if the land is within the City of Blacktown.
- (2) This clause is subject to the Act.

### **20 Development consent restrictions**

- (1) Development consent must not be granted with respect to any development on land to which this plan applies unless the consent authority—
  - (a) is satisfied that the proposed development will not be inconsistent with achievement of the performance objectives, and the zone objectives and other requirements prescribed by this plan, and
  - (b) has considered the development control strategies contained in the environmental planning strategy, in so far as they relate to the proposed development.
- (2) Consent must not be granted for development within a precinct unless—
  - (a) there is a precinct plan for the precinct and the consent authority has taken that precinct plan into account, and
  - (b) the consent authority has taken into account whether the proposed development is consistent with the terms of any relevant development agreement.
- (3) However, consent may be granted for the following development, whether or not the land concerned is within a release area declared under Part 2 or there is a precinct plan relating to the land—
  - (a) on or with respect to land identified by the words “educational establishment” on the Structure Plan—development for the purpose of an educational establishment, including a subdivision to create a separate allotment for the educational establishment, and development for the purpose of related servicing

infrastructure, such as roads, drainage and sewerage works, or

(b) on or with respect to any land—development that, in the opinion of the consent authority, is of a minor nature.

(4) Consent may also be granted for carrying out development for the purpose of any servicing infrastructure, such as roads, drainage and sewerage works, required to enable development of land in any precinct for which there is a precinct plan, whether or not the land concerned is within a release area declared under Part 2.

## **Part 5 Performance objectives**

### **21 Required outcomes for any development**

The performance objectives set out in this Part describe the desired environmental, social and economic outcomes for development on the land.

### **22 Ecologically sustainable development**

Development on the land to which this plan applies is to be planned and carried out so that it supports the goal of ecologically sustainable development within the region declared under the Act and known as the Sydney Region.

### **23 Air quality**

- (1) Adverse impact on the air quality of the Blacktown City and Penrith City local government areas is to be minimised through the implementation of appropriate measures as part of any development.
- (2) Development on the land to which this plan applies should contribute to improved regional air quality by containing growth in vehicle kilometres travelled, by achieving higher than normal public transport use, encouraging walking and cycling, and promoting energy-efficient businesses and homes.

### **24 Conservation**

- (1) A representative and significant proportion of the natural values of the land are to be conserved within a regional park in order to protect the variety of Western Sydney vegetation communities, native flora and fauna species and fauna habitat.
- (2) Urban design and site planning in the Employment and Urban zones are to have regard to significant stands of trees and, where practicable, retain those trees.
- (3) Adverse impacts on the vegetation and fauna habitats within the Regional Park and Regional Open Space zones resulting from the development of areas zoned Employment or Urban are to be minimised.
- (4) Infrastructure is to be designed and located to minimise potential adverse impacts on

the conservation values of the land.

- (5) Infrastructure and recreational facilities within the regional park are to be sited and constructed to minimise adverse impact on the park's natural values.

## **25 Heritage**

- (1) Regard for, and education and understanding of, the identified items of environmental heritage on the land to which this plan applies are to be promoted.
- (2) Development is not to adversely affect the heritage significance of items of environmental heritage and their settings.
- (3) The Aboriginal community is to be given the opportunity to comment regarding any potential impacts of development on, and proposals for mechanisms for the management of, items of Aboriginal heritage significance.

## **26 Community services**

- (1) Development of the land to which this plan applies is to integrate community services with land use planning.
- (2) The full range of human services and community facilities infrastructure appropriate to the changing needs of the community is to be provided in a timely manner, including the provision of basic or core services and facilities in the early stages of the development of each precinct.
- (3) The amenity of the Blacktown City and Penrith City local government areas is to be promoted through the provision of on-site services and facilities, and through complementing or augmenting existing service networks.
- (4) Equitable access to services and facilities is to be promoted for all groups and individuals in the community.
- (5) Community participation is to be encouraged in the identification of community service and facility needs.

## **27 Open space and recreation**

- (1) A range of open space and recreation areas and facilities for passive and active recreation is to be provided, including local playgrounds and neighbourhood parks.
- (2) The accessibility and utility of open space areas are to be maximised to allow use by the community.
- (3) Recreational activities and facilities within each precinct are to be located and designed to maximise conservation of the cultural and natural environmental values of buildings, works and places within the precinct.

## **28 Watercycle**

- (1) During and following construction, impacts upon water quality are to be minimised, through the utilisation of effective erosion and sediment control measures in accordance with industry standards.
- (2) The use of the land to which this plan applies is to incorporate stormwater management measures that ensure there is no net adverse impact upon the water quality (nutrients and suspended solids) in South Creek and Hawkesbury-Nepean catchments.
- (3) Water usage on and the importation of potable water on to the land to which this plan applies are to be minimised.
- (4) Development is to be designed and carried out so as to ensure that there is no significant increase in the water table level and that adverse salinity impacts will not result.
- (5) There is to be only minimal impact upon flood levels upstream or downstream of the land to which this plan applies as a consequence of its development.
- (6) Drainage lines are to be constructed and vegetated so that they approximate as natural a state as possible. Where it is necessary to modify existing drainage lines to accommodate increased stormwater runoff from urban areas, this should be done in a manner which maximises the conservation of indigenous flora in and around the drainage lines.
- (7) Development is to be carried out in a manner that minimises flood risk to both people and property.
- (8) Changes in local flow regimes due to development are to be minimised for rainfall events up to the 50% AEP rainfall event.
- (9) Gross pollutants are to be collected at, or as close as possible to, their source or at all stormwater outlets, or at both of those places, so that there is no increase in sediment/litter entering the creeks as a result of development.

## **29 Soils**

Development is to have regard to soil constraints to ensure that the risk of adverse environmental and economic impacts is minimised.

## **30 Transport**

- (1) Development should support creation of effective public transport and bicycle links to the dominant centres and major transport nodes in the Blacktown City and Penrith City local government areas.

- (2) Public transport is to be provided early in the development of the land to which this plan applies to establish use patterns.
- (3) Development of the land to which this plan applies is to maximise accessibility to services and facilities for people who do not have access to a private car.
- (4) Development of the land to which this plan applies is to effectively link that land into the surrounding road network and traffic generated by the development is to be catered for at a satisfactory level of service.
- (5) Provision of transport infrastructure and services is to be coordinated with the staging of development on the land.
- (6) Urban form is to maximise the potential for public transport, walking and cycling to replace car travel, with an overall net neighbourhood density target of at least 15 dwellings per hectare.
- (7) High trip-generating uses such as employment development, retailing and multi-unit housing are to be concentrated adjacent to major public transport routes and nodes.
- (8) The overall development of land to which this plan applies is to include a range of land uses sufficient to minimise demand for travel outside the land to which this plan applies.
- (9) Public transport infrastructure and services are to be provided to a level sufficient to achieve a significantly higher use of public transport compared to other similar development in the Blacktown City and Penrith City local government areas.

### **31 Urban form**

- (1) Development of the land to which this plan applies is to result in an attractive and safe built environment which satisfies a diverse range of community needs.
- (2) Development is to integrate the new community with existing adjoining communities.
- (3) Development on the land to which this plan applies is to include—
  - (a) a diverse range of building types and designs, and
  - (b) residences in close proximity (that is, a comfortable walking distance) to public transport, human services and retail, community and recreation facilities, and
  - (c) clearly distinguished public and private spaces, and
  - (d) a legible street layout.
- (4) The overall development of the land to which this plan applies is to incorporate urban design measures to discourage crime and facilitate safety and access for disabled persons.

### **32 Employment and business development**

- (1) The total number of jobs generated by development on land to which this plan applies (including jobs generated on the surrounding land) is to approximate the number of workers who will be resident on the land to which this plan applies after the development has been carried out.
- (2) Retail and commercial development on the land to which this plan applies is not to undermine the regional and district retail and commercial centre hierarchy.
- (3) Local retail services are to be provided in the early stages of the development of each precinct.
- (4) Noise conflict between employment or business-related development and nearby residential development is to be minimised.

### **33 Housing**

- (1) Residential development on the land to which this plan applies will provide for a choice of housing and allotment types and sizes, including multi-unit housing, attached housing and detached housing.
- (2) The residential buildings in each precinct are to contain a range of housing styles and densities.

### **34 Energy efficiency**

Development on the land to which this plan applies is to incorporate best practice energy management and implement energy efficient principles wherever possible.

### **35 Waste management**

- (1) Buildings are to be designed and constructed in a way that minimises the production of unnecessary waste.
- (2) Development is to facilitate appropriately designed and scaled local activities which reuse, recycle and reprocess wastes.

## **Part 6 Zoning**

### **36 Zoning**

- (1) Land to which this plan applies is within one of the following zones—
  - (a) Regional Park
  - (b) Regional Open Space
  - (c) Employment

- (d) Urban
- (e) Road and Road Widening
- (f) Drainage

(2) The zoning of land is shown on the Zoning Map.

### **37 Regional Park zone**

(1) The objectives of the Regional Park zone are—

- (a) to identify land that is to be or is reserved or dedicated under the *National Parks and Wildlife Act 1974*, and
- (b) to conserve and enhance the range and variety of ecological communities, native flora and fauna species and plant and animal habitats within the area, and
- (c) with regard to the views of local Aboriginal communities, to conserve the Aboriginal values of the area to ensure they are available for interpretation to future generations, and
- (d) to provide recreational facilities that are consistent with the natural and cultural values of the land to which this plan applies.

(2) In the Regional Park zone—

- (a) development for the purpose of any land use authorised by or under the *National Parks and Wildlife Act 1974* and any land use ordinarily incidental or ancillary to any such land use may be carried out without development consent, and
- (b) any other development is prohibited.

### **38 Regional Open Space zone**

(1) The objectives of the Regional Open Space zone are—

- (a) to identify land that is to be or is held by the corporation as regional open space where recreational opportunities for the general community may be provided, and
- (b) to identify a strip of land between the Regional Park zone and the Central Precinct which potentially may be used for the erection of an electricity transmission line.

(2) In the Regional Open Space zone—

- (a) development for the purpose of the following is allowed with the consent of the consent authority—
  - advertisements, drains, parking areas, recreation establishments, recreation facilities, roads, utility installations (other than generating works), and

- (b) any other development (except that identified by this plan as exempt or complying) is prohibited.

### **39 Employment zone**

- (1) The objectives of the Employment zone are—

- (a) to provide land for employment-generating land uses in locations which are compatible with surrounding development and which are accessible from within and outside the land to which this plan applies, and
- (b) to provide for a wide range of employment development on land which will complement established employment areas and retail and commercial centres in the Blacktown City and Penrith City local government areas, and
- (c) to accommodate uses which generate business activity and employment opportunities in the Blacktown City and Penrith City local government areas, and
- (d) to ensure that development adjacent to the Regional Park zone does not have a negative impact on the biodiversity or conservation values of land within that zone.

- (2) In the Employment zone—

- (a) any development (except that identified by this plan as exempt or by paragraph (b) as prohibited) is allowed only with the consent of the consent authority, and

- (b) development for the purpose of the following is prohibited—

agriculture, airline terminals, amusement centres, bed and breakfast establishments, bulky goods retailing, caravan parks, commercial premises (except where ancillary to buildings or land uses not specified in this paragraph), educational establishments (other than colleges, technical colleges, academies or lecture halls), exhibition homes, exhibition villages, extractive industries, forestry, generating works, hazardous industries, hazardous storage establishments, helipads, heliports, hospitals, hotels, housing (except where ancillary to buildings or land uses not specified in this paragraph), institutions, intensive livestock keeping establishments, intensive plant agriculture, liquid fuel depots, local retail or commercial premises, mines, mineral sand mines, nursing homes, offensive industries, offensive storage establishments, roadside stalls, rural industries, sawmills, shops (including a retail shop which is ancillary or incidental to another form of development but not including shops which serve the daily convenience needs of the workforce employed within the zone), stock and sale yards, timberyards, waste disposal.

### **40 Urban zone**

- (1) The objectives of the Urban zone are—

- (a) to ensure that buildings and works within the zone are primarily used for residential purposes and associated facilities, and
  - (b) to limit the range and scale of non-residential uses to ensure that they are compatible with residential amenity and primarily serve local residents, and
  - (c) to provide for local retailing and related services, including supermarkets, which will complement established centres in the Blacktown City and Penrith City local government areas and not have a significant adverse effect on the viability of established retail centres, and
  - (d) to provide for medium density residential development in locations which provide optimum access to employment, public transport and services, while ensuring residential amenity, and
  - (e) to promote home based industries where such activities are unlikely to adversely affect the living environment of neighbours, and
  - (f) to ensure that development adjacent to the Regional Park zone does not have a negative impact on biodiversity or conservation within that zone.
- (2) In the Urban zone—
- (a) development for the purpose of the following is allowed with the consent of the consent authority—
    - advertisements, amusement centres, backpackers' hostels, bed and breakfast establishments, boarding houses, bush fire hazard reduction, centre-based child care facilities, clubs, community facilities, drains, educational establishments, essential community services, exhibition homes, exhibition villages, fast food take-away restaurants, flood mitigation works, general stores, guesthouses, home activities, home businesses, hospitals, hotels, housing, local retail or commercial premises, medical centres, motels, nursing homes, parks, places of assembly, places of worship, professional consulting rooms, public buildings, recreation establishments, recreation facilities, regeneration activities, restaurants, retail plant nurseries, roads, service stations, shops.
  - (b) any other development (except that identified by this plan as exempt or complying) is prohibited.

#### **41 Road and Road Widening zone**

- (1) The objective of the Road and Road Widening zone is to identify certain land that will be required for the purpose of a road.
- (2) In the Road and Road Widening zone—

- (a) development for the purpose of the following is allowed only with the consent of the consent authority—
  - drains, parks, regeneration activities, roads, utility installations, and
- (b) any other development (except that identified by this plan as exempt or complying) is prohibited.

## **42 Drainage zone**

- (1) The objectives of the Drainage zone are—
  - (a) to enable certain land that adjoins or is substantially surrounded by land within the Regional Park zone to be used for the purpose of stormwater management, and
  - (b) to permit development for the purpose of stormwater management, as well as development which is compatible with both the use of land for stormwater management and with the conservation objectives of the adjoining land zoned Regional Park.
- (2) In the Drainage zone—
  - (a) development for the purpose of the following is allowed only with the consent of the consent authority—
    - advertisements, drains, land uses authorised by or under the *National Parks and Wildlife Act 1974* and any use ordinarily incidental or ancillary to any such use, parks, regeneration activities, roads, utility installations (other than generating works), and
  - (b) any other development (except that identified by this plan as exempt or complying development) is prohibited.

## **43 Exempt and complying development**

- (1) This clause applies only to land within a release area declared under Part 2 for which a precinct plan has been approved.
- (2) On land to which this clause applies that is within the City of Blacktown, development which is exempt or complying development if carried out on land within a zone identified in Column 2 of the Table in Schedule 2 is exempt or complying development, as the case may be, if carried out on land within the corresponding zone identified in Column 1 of the Table, but only if the development is not prohibited on the land by this plan.
- (3) On land to which this clause applies that is within the City of Penrith, development that is exempt or complying development if carried out on land within a zone identified in Column 3 of the Table in Schedule 2 is exempt or complying development,

as the case may be, if carried out on land within the corresponding zone identified in Column 1 of the Table, but only if the development is not prohibited on the land by this plan.

- (4) Despite subclauses (2) and (3), development—
- (a) is not exempt development if it is proposed to be carried out on the site of an item of environmental heritage that—
    - (i) is identified as such in this or any other environmental planning instrument applying to the land, or
    - (ii) is listed on the State Heritage Register under the *Heritage Act 1977*, or
    - (iii) is subject to an interim heritage order under the *Heritage Act 1977*, and
  - (b) is not complying development if it is proposed to be carried out on land that is below the PMF level.

## **Part 7 Development controls**

### **44 Consultation with National Parks and Wildlife Service**

- (1) This clause applies to the following—
- (a) development of land adjoining land within the Regional Park zone, and
  - (b) development for the purpose of a road or public utility undertaking on land zoned Regional Park that is subject to an existing easement, where the application is lodged prior to the land being reserved or dedicated under the *National Parks and Wildlife Act 1974*.
- (2) The consent authority must not grant development consent for development unless it has referred a copy of the development application to the Director-General of National Parks and Wildlife.
- (3) Where a copy of a development application has been forwarded to the Director-General of National Parks and Wildlife pursuant to this clause, the consent authority must not grant consent to the application until—
- (a) it has received and considered advice with respect to the application from that Director-General, or
  - (b) the consent authority has been notified that that Director-General does not wish to submit any advice with respect to the application, or
  - (c) 28 days have elapsed after the date on which the application was referred to the Director-General,

whichever occurs first.

#### **45 Subdivision**

A person may subdivide land to which this plan applies, but only with the consent of the consent authority.

#### **45A Subdivision for residential purposes**

The consent authority must not grant consent to the subdivision of land for residential purposes within the Central Precinct unless the consent authority is satisfied that—

- (a) a range of dwelling types is provided for within the Precinct, and
- (b) the total number of dwellings within the Precinct will not exceed 2,000 dwellings.

#### **46 Development near zone boundaries**

- (1) Development that (in the absence of this clause) would be prohibited in a zone may be carried out with development consent within 30 metres of the boundary between that zone and another zone if it is allowed in the other zone either with or without development consent.
- (2) However, this clause does not allow consent to be granted for development within the Regional Park zone.

#### **47 Demolition**

A person may demolish, in part or in whole, a building on land to which this plan applies, but only with the consent of the consent authority.

#### **48 Interim uses**

- (1) Despite Parts 4 and 6, development may be carried out on land to which this plan applies with development consent for any purpose, but only if the consent authority is satisfied that—
  - (a) the development will not prevent achievement of the aims of this plan, and
  - (b) the development will not make the eventual development of the land in accordance with the zone objectives more difficult than it would be if the development had not been carried out, and
  - (c) appropriate arrangements have been or will be made for the reinstatement of the land affected by the development so that it may be used in accordance with the zone objectives, and
  - (d) the development will not adversely affect residential amenity or result in a land use conflict in relation to other development allowed in accordance with this plan on other land in the locality.

- (2) Consent must not be granted for development as provided by this clause unless conditions of the consent—
  - (a) require that the development ceases by a specified time occurring no later than 5 years after the date from which the consent operates, and
  - (b) provide for the consent to lapse if the development it allows to be carried out is not commenced within 2 years after that date.
- (3) Nothing in this clause allows consent to be granted for—
  - (a) subdivision or development for the purpose of retailing, commercial premises or housing, or
  - (b) development on any land after a precinct plan that applies to the land has been approved, or
  - (c) development on land within the Regional Park zone, after the land has been reserved or dedicated under the *National Parks and Wildlife Act 1974*, or
  - (d) development on land within the Regional Open Space zone, Road and Road Widening zone or Drainage zone after the land has been vested in the corporation or the relevant council.

#### **49 Land below the PMF level**

- (1) Development may be carried out on land below the PMF level only with the consent of the consent authority.
- (2) The consent authority must not grant consent to development for residential or industrial purposes on land identified as being affected by the 1% Annual Exceedence Probability (AEP) flood on the Structure Plan unless it is satisfied that, following development, the land will be above the 1% AEP flood level.
- (3) The erection of a building for the purpose of an essential community service, and the carrying out of a work for that purpose, are prohibited on land below the PMF level.
- (4) Before granting consent for development of land zoned Urban or Employment that is below the PMF level, the consent authority must have regard to a merit based assessment undertaken in accordance with the principles and guidelines set out in the *Floodplain Development Manual* (NSW Government, December 1986) or any document approved by the Director as replacing that document for the purposes of this plan.
- (5) Road systems on land which would be affected by the PMF are to be designed to facilitate safe evacuation during flood events.

## **50 Filling of land**

- (1) Filling of land that is below the level of the PMF before it is filled is prohibited.
- (2) However, the consent authority may grant consent to the filling of land where it is satisfied that—
  - (a) the proposed development will not be inconsistent with the principles set out in the manual entitled *Floodplain Development Manual: the management of flood liable land* published by the New South Wales Government, and
  - (b) in the case of land identified on the Structure Plan as “potential fill area”, the proposed development will not be inconsistent with the performance objectives of this plan, and
  - (c) in the case of land not identified on the Structure Plan as “potential fill area” but within the Regional Open Space zone or the Road and Road Widening zone, the proposed development is necessary as part of development to be carried out on the land.

## **51 Salinity and highly erodible soils**

- (1) The consent authority must not grant consent to the development of any land unless it has considered—
  - (a) a detailed soil assessment which includes a finding of whether or not the land is at risk from salinity or contains soils which are highly erodible, and
  - (b) whether the proposed development incorporates appropriate building materials, techniques and land management measures to mitigate adverse environmental and economic impacts.
- (2) The consent authority must not consent to the development of land so found to be at risk or affected, unless it is satisfied that appropriate measures have been incorporated or are able to mitigate the potential impacts.

## **52 Tree preservation**

- (1) A person must not ringbark, cut down, lop, top, remove, injure or wilfully destroy any tree, or cause any tree to be ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed by any action (including the addition of soil or drainage works around the base of the tree), except with the consent of the consent authority.
- (2) Despite subclause (1), consent is not required where—
  - (a) the tree is dead, or
  - (b) the tree is declared a noxious weed under the *Noxious Weeds Act 1993*, or

- (c) the tree is assessed as dying, in poor condition or potentially dangerous by a qualified arborist, or
  - (d) the action to the tree is taken for the purpose of bush fire hazard reduction in accordance with an approved local bush fire management plan referred to in section 52 of the *Rural Fires Act 1997*, or
  - (e) the tree is less than five metres from a building or work for which consent has been granted or which has been approved by the consent authority, or
  - (f) the action to the tree is taken in accordance with a permit issued by the consent authority.
- (3) before granting a consent or permit referred to in this clause, the consent authority must make an assessment of the importance of the tree or trees concerned in relation to the following—
- (a) soil stability and prevention of land degradation,
  - (b) preservation of scenic and environmental amenity,
  - (c) maintenance of vegetation systems and natural wildlife habitats and corridors,
  - (d) prevention of soil salinity and a rising water table.
- (4) This clause does not apply to the lopping of trees in accordance with Part 9 of the *Electricity Supply (General) Regulation 1996* or section 48 of the *Electricity Supply Act 1995*, or to any trees under the control of the National Parks and Wildlife Service.

### **53 Items of environmental heritage**

Items of environmental heritage are identified on the Heritage Map.

### **54 General heritage considerations**

Consent must not be granted for development of, or in the vicinity of, an item of environmental heritage unless the consent authority has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

### **55 Conservation of items of environmental heritage**

- (1) A person must not, in respect of a building, place, work or relic that is an item of environmental heritage—
- (a) demolish, renovate or extend the building or work, or
  - (b) damage or despoil the relic or any part of the relic, or
  - (c) excavate any land for the purpose of exposing or removing the relic, or

- (d) erect a building on the land on which the building, work or relic is situated or the land which comprises the place, or
  - (e) subdivide the land on which the building, work or relic is situated or the land which comprises the place,
- except with the consent of the consent authority.
- (2) The consent authority must not grant consent to a development application made in pursuance of subclause (1) unless it has made an assessment of—
    - (a) the significance of the item as an item of environmental heritage of the St Marys area, 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, and
    - (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.
  - (3) The consent authority must not consent to development involving an item of environmental heritage unless it has considered a statement of heritage impact or a conservation plan relating to the item and the proposed development.
  - (4) The consent authority may grant consent to development involving the excavation or filling of land or the erection on land (involving disturbance of the land) or demolition of buildings on land that is the site of an item of environmental heritage 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.
  - (5) Before granting consent for a development that is likely to have an impact on an Aboriginal place, or that will be carried out on an archaeological site that has Aboriginal cultural significance or a potential archaeological site that is reasonably likely to have Aboriginal cultural significance, the consent authority must—
    - (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
    - (b) notify the local Aboriginal communities (in such a way as it thinks appropriate) and the Director-General of National Parks and Wildlife of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

## **56 Demolition of items of environmental heritage**

- (1) The consent authority must not grant consent to the demolition, defacing or damaging of the item of environmental heritage indicated as Site 3 on the Heritage Map until—
  - (a) 28 days after the consent authority has sent written notice of its intention to grant the consent to the Heritage Council and it has taken into consideration any submission made by the Heritage Council in that period about the proposal, or
  - (b) the Heritage Council has notified the consent authority that it has no objection to the granting of the consent,whichever occurs first.
- (2) Subclause (1) does not apply to partial demolition of the item of environmental heritage if, in the opinion of the relevant council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the item.

## **57 Access**

- (1) Development, other than for the purpose of a public road, that would enable vehicular access to The Northern Road, Palmyra Avenue or Forrester Road is prohibited.
- (1A) The consent authority must not grant development consent for development, other than for the purpose of a public road, that would enable direct vehicular access to Ninth Avenue unless it has considered the following matters—
  - (a) the capacity of Ninth Avenue to accommodate any vehicular traffic resulting from the proposed development,
  - (b) the effect any such vehicular traffic may have on the existing road hierarchy in the vicinity of the proposed development,
  - (c) any adverse impact of the proposed development on the rural character of Ninth Avenue or its surrounds.
- (2) This clause does not apply to land identified as “educational establishment” on the Structure Plan.

## **58 Certain development prohibited**

Regardless of any other provision of this plan—

- (a) development described in Schedule 3 is prohibited on land shown hatched on the Zoning Map, and
- (b) development for the purpose of housing is prohibited on land that is less than 400 metres from the land in Lot 1 DP 31910, Lot 1 DP 223888 or Lot 1 DP 803832.

## **59 Retail and commercial development restricted**

- (1) The consent authority must not grant consent to development described in Schedule 4 on land zoned Urban unless—
  - (a) the proposed development is located on land identified as suitable for use for the purpose of a retail centre by a precinct plan, and
  - (b) the consent authority is satisfied that, if the proposed development is carried out, the total gross floor area of all buildings on land to which this plan applies that may be used for the purpose of shops will not exceed 13,000 square metres approximately divided as follows—
    - (i) Western Precinct—7,500 square metres,
    - (ii) Central, Dunheved North and Dunheved South Precincts (combined)—2,500 square metres,
    - (iii) Eastern and Ropes Creek Precincts (combined)—3,000 square metres.
- (2) However, subclause (1) (b) does not apply if the consent authority is satisfied that, after the proposed development is carried out, the total gross floor area (including the gross floor area of all other buildings used for retailing in the locality) will not be greater than the total required to reasonably service the local residential community and workforce.
- (3) Subclause (1) does not apply to the granting of consent for general stores.

## **60 Services**

Development must not be carried out on any land to which this plan applies until arrangements have been made for the supply of water, sewerage, drainage and underground power that are satisfactory to the consent authority.

## **61 Subdivision without consent**

Despite any other provision of this plan, consent is not required—

- (a) for a subdivision for the purpose of creating the proposed regional park and regional open space, with boundaries in accordance with the Zoning Map, or
- (b) for a subdivision primarily for the purpose of providing land or an interest in land as a security in favour of a public authority in accordance with the terms of a development agreement within the meaning of this plan.

## **62 Bush fire hazard reduction works**

Except as required by clause 52 (Tree preservation), nothing in this plan requires that development consent be obtained to carry out bush fire hazard reduction works on land

for which a precinct plan has been approved.

#### **62A 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).

#### **62B Conversion of fire alarms**

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

another private service provider,

(c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

(3) Development to which subclause (2) applies is complying development if it consists only of—

(a) internal alterations to a building, or

(b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.

(4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.

(5) In this clause—

***private service provider*** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

#### **62C Concurrence of Planning Secretary—intensive urban development**

(1) This clause applies to development—

(a) on land in an intensive urban development area, and

(b) that results in an increase in the number of dwellings on the land.

(2) Development consent must not be granted to the development unless the consent authority has obtained the concurrence of the Planning Secretary.

(3) In deciding whether to grant concurrence, the Planning Secretary must consider the following—

(a) the impact of the development on—

(i) existing designated State public infrastructure, and

(ii) the need for additional designated State public infrastructure.

(b) the cumulative impact of the development with other development that has been, or is likely to be, carried out in the intensive urban development area on—

(i) existing designated State public infrastructure, and

- (ii) the need for additional designated State public infrastructure,
  - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into that contributes to designated State public infrastructure.
- (4) This clause does not apply to development on land if all or part of the land is in a special contributions area to which a determination under section 7.23 of the Act applies.

#### **62D Public utility infrastructure**

- (1) Development consent must not be granted for development on land in an intensive urban development area unless the consent authority is satisfied that—
- (a) public utility infrastructure that is essential for the development is available, or
  - (b) the public utility infrastructure will be available when required.
- (2) In this clause—

**public utility infrastructure** includes infrastructure for the following—

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

#### **62E Emergency evacuation management plan**

- (1) The object of this clause is to ensure that provision is made for the safe evacuation of residents of the Central Precinct in an emergency.
- (2) Development consent must not be granted to the subdivision of land in the Central Precinct unless the consent authority is satisfied that—
- (a) an emergency evacuation management plan will be prepared in consultation with the relevant Local Emergency Management Committee under the [State Emergency and Rescue Management Act 1989](#), and
  - (b) the plan will be prepared and implemented before the land is used for residential purposes, and
  - (c) the plan will adequately provide for the safe evacuation of persons residing in the Central Precinct in an emergency.

#### **62F Subsidence risk**

- (1) The objectives of this clause are to ensure that development in areas of subsidence

risk—

- (a) does not disturb the underlying geotechnical conditions of the land, and
- (b) is restricted on unsuitable land, and
- (c) does not endanger life or property.

(2) This clause applies to land shown as “Subsidence Risk Area” on *the Zoning Map*.

(3) Before determining a development application for specified development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development is responsive to the risk of subsidence—

- (a) the development’s design and construction methods,
- (b) the specific geotechnical constraints of the site,
- (c) wastewater management, stormwater and drainage across the site.

(4) Development consent must not be granted to specified development on land to which this clause applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid any significant adverse impact on the development and the land surrounding the development, and
- (b) the consent authority is satisfied that the development will appropriately manage wastewater, stormwater and drainage across the site so as to not affect the rate, volume and quality of water leaving the land.

(5) In this clause—

**specified development** means—

- (a) development under clause 20(4), 45 or 50, or
- (b) development for any of the following purposes—
  - (i) community facilities,
  - (ii) drains,
  - (iii) essential community services,
  - (iv) flood mitigation works,
  - (v) parks,
  - (vi) recreation facilities,

- (vii) public roads or private roads within the meaning of the *Roads Act 1993*, and including classified roads.

## Part 8 Transitional provisions

### 63 Matters to which this plan does not apply

This plan does not apply to—

- (a) a development application, or an application for the approval of an activity within the meaning of Part 5 of the Act, that was made but not finally determined before the commencement of this plan, or
- (b) the carrying out of development or an activity pursuant to a consent or approval granted—
  - (i) before the commencement of this plan, or
  - (ii) in response to an application referred to in paragraph (a).

## Schedule 1 Definitions

(Clause 5)

**AEP** or **annual exceedence probability** means the chance, expressed as a percentage, of a flood occurring in any one year.

**advertisement** means the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

**agriculture** means—

- (a) cultivating fruit, vegetable or flower crops, or
- (b) keeping or breeding livestock, bees or poultry or other birds,

for commercial purposes, but does not include the use of land for an intensive livestock keeping establishment or for intensive plant agriculture.

**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.

**amusement centre** means a building or place in or at which—

- (a) four or more tables are used for playing pool, snooker, billiards or other like games, or
- (b) four or more electrically or mechanically operated amusement devices, such as pinball machines, are played.

**backpackers' hostel** means a building having an average of two or more beds in each room and providing temporary shared accommodation for travellers and tourists who have their principal place

of residence elsewhere, but (in Part 6) does not include a building or place specifically defined elsewhere in this Schedule.

**bed and breakfast establishment** means a dwelling house used by its permanent residents to provide short-term paid accommodation (which may include meals) for visitors on a room basis and includes homestay accommodation, but which does not—

- (a) accommodate more than six visitors at any one time, or
- (b) involve the employment of persons other than those residents, or
- (c) interfere with the amenity of the neighbourhood due to the generation of vehicular traffic, the attraction of customers, or the reduction of car parking in the vicinity of the land to which this plan applies, or
- (d) involve the sale of liquor or sale of goods from the land to which this plan applies, or
- (e) involve the provision of a reception centre or a recreation facility.

**boarding house** means a building or place—

- (a) where accommodation, meals and laundry facilities are provided to residents of the building or place, and
- (b) which is not licensed to sell liquor within the meaning of the [Liquor Act 1982](#).

**brothel** means premises used for the purposes of prostitution by one or more prostitutes.

**building** has the same meaning as in section 4 of the Act.

**building area** means the floor area of a building as measured to the external face of each floor, including all enclosed floor space and enclosed garages.

**bulky goods retailing** means use of a building or place for the sale by retail or auction, or the hire or display, of any of the following or the like—

- (a) furniture,
- (b) electrical goods,
- (c) toy and sporting equipment,
- (d) office furniture,
- (e) hardware,
- (f) outdoor products,
- (g) floor coverings,
- (h) automotive parts and accessories,
- (i) lighting,

- (j) antiques and second hand goods,
- (k) kitchen or bathroom showrooms,
- (l) tiles (floor, ceiling or wall).

**bush fire hazard reduction** means a reduction or modification (by controlled burning or by mechanical, chemical or manual means) of material that constitutes a bush fire hazard.

**call centre** means a commercial activity where persons are primarily employed to make and receive telephone calls, carried out in a building or part of a building that could readily and economically be adapted for use as a warehouse.

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

**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 used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or a different kind and whether or not the whole or 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 (in Part 6) does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a land use elsewhere specifically defined in this Schedule.

**community facility** means a building, place or any other facility, whether or not provided by the relevant council, provided for use by groups having similar physical, cultural, social, recreational, ethnic or other interests or beliefs, but (in Part 6) does not include a club which is registered under the [Registered Clubs Act 1976](#) or a building or place specifically defined elsewhere in this Schedule.

**consent authority** is defined in clause 19.

**demolition** of a building or work means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part.

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) social infrastructure and facilities, including schools, hospitals, emergency services and affordable housing.

**development agreement** means a legally enforceable agreement to which an owner of land to which this plan applies is a party, together with one or more of the Crown in right of the State of New South Wales, Penrith City Council or Blacktown City Council, and which makes provision for services, infrastructure or facilities to support the development of land to which this plan applies or for the transfer of land ownership.

**drain** means any channel, conduit or pipe used for removing water other than sewage, and includes stormwater detention basins.

**dual occupancy development** means development that results in two dwellings (whether attached or detached) on a single allotment of land (or which would have that result were it not for the fact that the allotment is to be subdivided as part of the development), however that development is described or provided for in an environmental planning instrument.

**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](#).

**environmental planning strategy** means the *St Marys Environmental Planning Strategy, 2000* of the Department, as amended by any amendments adopted by the Director from time to time.

**essential community service** means a service which, if adversely affected by flooding or other natural disaster, would result in significant inconvenience to the community or increased risk to life or property, including a police, hospital, fire fighting and telephone service.

**exhibition home** means a dwelling built for the purposes of public exhibition and marketing which is intended to be sold as a private dwelling after it has been used for those purposes and may include a sales office, and a place for providing home financing and a building or furnishing materials display, and the like.

**exhibition village** means a contiguous group of exhibition homes and other buildings or works used for the purpose of promoting house sales including sales offices, and places used for providing home financing, a materials display and the sale of take-away food and the like.

**extractive industry** means—

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

**extractive material** means sand, gravel, turf, soil, rock, stone, sandstone or a similar substance.

**fast food take-away restaurant** means a building or place (including a take-away restaurant, drive-in take-away restaurant or the like) where food or drink is prepared or offered for sale, whether or not the food or drink is consumed in that building or place or elsewhere, but (in Part 6) does not include a building or place specifically defined elsewhere in this Schedule.

**flood mitigation works** means works and measures which are intended to reduce or eliminate the effects of flooding.

**forestry** includes arboriculture, silviculture and the harvesting of trees and shrubs for the purpose of—

- (a) afforestation, forest protection, the cutting, dressing and preparing (otherwise than in a sawmill) of wood and forest products, or
- (b) establishing roads necessary for the removal of wood and forest products and for forest protection.

**general store** means a shop which operates primarily to serve the surrounding residential area and does not exceed 100 square metres in gross floor area, and which may include the facilities of a post office, newsagency or dry cleaning agency.

**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, but excluding—

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls, and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts, and
- (c) car parking needed to meet any requirements of the relevant council and any internal space used solely for vehicular or pedestrian access to that parking, and
- (d) space for the loading and unloading of goods, and
- (e) internal public arcades and thoroughfares, terraces and balconies with outer walls less than 1,400 millimetres high.

**guesthouse** means a building or buildings used for paid accommodation for visitors, but only where—

- (a) the building or buildings are of a domestic scale of architecture, and
- (b) the building or buildings incorporate common facilities for the provision of meals, either to persons temporarily resident or to the public, and whether or not those facilities are licensed, and
- (c) the use of the land does not interfere with the amenity of the neighbourhood due to the generation of vehicular traffic, the attraction of customers or the reduction of car parking in the vicinity of the land to which this plan applies.

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

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

**hazardous storage establishment** means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality) would pose a significant risk in relation to the locality—

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

**health care professional** means a person who provides professional health services to members of the public.

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

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

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

**home activity** means a business carried out in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which does not involve—

- (a) the employment of persons other than those residents, or
- (b) customers or clients visiting the premises at any time, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the sale of goods by retail from the land to which this plan applies, or
- (e) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the residents), or
- (f) the registration of the dwelling house or dwelling under the [Shops and Industries Act 1962](#), or
- (g) interference with the amenity of the neighbourhood by the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the like, or
- (h) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of parking in the vicinity of the land to which this plan applies, or the like, or
- (i) exposure to view, from any adjacent premises or from any public place, of any unsightly matter.

**home business** means a business carried out, or partly carried out, in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which does not involve—

- (a) the employment of more than two persons, at any one time, in addition to the permanent

residents, or

- (b) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the residents), or
- (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, grit or oil, or the like, or
- (d) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of car parking in the vicinity of the land to which this plan applies, visitation by customers or clients, or the like, or
- (e) exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (f) the provision of any essential service main of a greater capacity than that available in the locality, or
- (g) the use of premises for a brothel.

**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) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and may include—

- (a) ancillary facilities for the accommodation of nurses or other health care workers, and
- (b) ancillary shops or restaurants, and
- (c) ancillary accommodation for persons receiving health care or for their visitors, and
- (d) 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 premises specified in a hotelier's license granted under the [Liquor Act 1982](#).

**housing** means development of a nature intended to create one or more dwellings, including dwelling houses, dual occupancies, multi-unit housing, housing for older people or people with disabilities, or any combination of them.

**housing for older people or people with a disability** has the same meaning as in *State Environmental Planning Policy No 5—Housing For Older People or People with a Disability*.

**industry** means—

- (a) any manufacturing process within the meaning of the [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 (in Part 6) does not include an extractive industry or other land use specifically defined elsewhere

in this Schedule.

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

**intensive livestock keeping establishment** means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes—

- (a) feed lots, and
- (b) piggeries, and
- (c) poultry farms, and
- (d) places used for fish farming (including farming of crustaceans),

but does not include buildings or places used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land.

**intensive urban development area** means the area of land identified as “Intensive Urban Development Area” on the *Zoning Map*.

**item of environmental heritage** means a building, place, work or relic indicated as such an item on the Heritage Map.

**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 or used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery or for the sale of parts of them.

**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, in the opinion of the consent authority, interfere with the amenity of the surrounding neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

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

**local retail or commercial premises** means retail or commercial buildings of a scale and nature appropriate to service the needs of people living or working on the land to which this plan applies, and may include but is not limited to things such as supermarkets, newsagencies, butchers’, fruit and vegetable or hairdressers’ shops, real estate agents’ premises, and banks.

**map** means a map kept in the Parramatta office of the Department and a copy of which is held in the office of each consent authority.

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

**mine** means the obtaining (by methods including excavating, quarrying, dredging, tunnelling or

drilling) or removal of minerals, petroleum or natural gas and includes the storage and processing of the mineral obtained.

**mineral** has the same meaning as in the [Mining Act 1992](#).

**mineral sand mine** means a mine used for or in connection with the purpose of obtaining ilmenite, monazite, rutile, zircon or similar minerals.

**motel** means a building (other than a backpackers' hostel, bed and breakfast establishment, guesthouse, hotel or multi-unit housing) used principally for the overnight accommodation of travellers and the parking of their vehicles, whether or not the building incorporates a common facility for the provision of meals, either to persons temporarily resident or to the public, and whether or not those facilities are licensed.

**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 in or on it.

**multi-unit housing** means a building or buildings containing three or more dwellings and includes forms of residential buildings commonly known as apartments, boarding houses, cluster housing, integrated housing, residential flat buildings, serviced apartments, row houses, terrace houses, townhouses or villas and the like.

**natural ground level** is the ground surface level prior to any development, including any cutting, filling and grading, and, where the existing ground level differs from the natural ground level, the natural ground level is taken to be as determined by the relevant council after taking into account any information concerning its location.

**nursing home** means accommodation for older people that provides—

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hospital or psychiatric facility.

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

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

locality or on existing or likely future development on the other land in the locality.

**parking area** means a building or place, including ground level areas or deck parking structures, used for parking vehicles and includes any associated vehicle manoeuvring areas, whether the building or place is used for the purpose of gain or not.

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

**place of worship** means a building or place used predominantly for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

**PMF** or **probable maximum flood level** is shown on the Structure Plan. It is indicative of the level of the maximum flood which is likely to occur.

**precinct** means an area of land shown by distinctive colouring on the Structure Plan, and identified on that plan as—

- (a) the Western Precinct, or
- (b) the Central Precinct, or
- (c) the Eastern Precinct, or
- (d) the Ropes Creek Precinct, or
- (e) the Dunheved North Precinct, or
- (f) the Dunheved South Precinct.

**precinct plan** means a plan prepared in accordance with Part 3 and adopted by either the relevant council or the Minister.

**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 there 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 organisation established for public purposes.

**recreation establishment** means health farms, religious retreat houses, rest homes, youth camps and the like, but (in Part 6) does not include a building or place elsewhere specifically defined in this Schedule or a building or place used or intended for use for a land use elsewhere specifically defined in this Schedule.

**recreation facility** means a building or place used for sporting, recreational or leisure activities, an

information or visitor centre or a shop selling take-away food or tourist related items, whether or not operated for the purpose of gain, and may consist of or include—

- (a) a swimming pool, golf course, tennis court, bowling green or playing field, and
- (b) a paint ball park or gun club, and
- (c) a go-kart track, skating rink, skateboard and rollerblade ramp or mini-golf course, and
- (d) a bowling alley, pinball and video parlour or pool hall.

**regeneration activity** means any action undertaken in relation to propagation of native vegetation, including the taking of earth and seed, its removal to the area being regenerated, the planting or transplanting of flora from one area to the area being regenerated and the carrying out of any associated works.

**relevant council** means the council of the area within which the land concerned is situated.

**relic** means any deposit, object or material evidence—

- (a) that relates to the settlement of the land to which this plan applies (not being Aboriginal settlement), and
- (b) that is 50 or more years old.

**renovation**, in relation to a building or work, means—

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work.

**restaurant** means a building or place (such as a café, tearoom or the like) the purpose of which is to provide food and drink to people for consumption only in that building or place, but (in Part 6) does not include a building or place specifically defined elsewhere in this Schedule.

**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 there.

**roadside stall** means a place or temporary structure used for the selling by retail of agricultural produce produced on the allotment of land on which the place or temporary structure is located.

**rural industry** means a business activity involving—

- (a) the handling, treating, processing or packing of primary products, or
- (b) regular servicing or repairing of plant or equipment used for the purpose of agriculture, aquaculture or a business referred to in paragraph (a).

**sawmill** means a mill used for 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 or other petroleum products, whether or not the building or place is also used for

one or more of the following—

- (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 or servicing of motor vehicles,
- (e) the retail selling or hiring of small consumer goods,

but does not include a building or place used for body building or the panel beating or spray painting of vehicles.

**shop** means a building or place used for the selling, exposing or offering for sale by retail, of goods, merchandise or materials, but (in Part 6) does not include a building or place elsewhere specifically defined in this Schedule, or a building or place used for a land use elsewhere specifically defined in this Schedule.

**stock and sale yard** means a building or place used for the purpose of offering livestock or poultry for sale.

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

**the Council** means the Council of the City of Blacktown, in relation to land within that City, or the Council of the City of Penrith, in relation to land within that City.

**the Heritage Map** means the map marked “*Sydney Regional Environmental Plan No 30—St Marys—Non Aboriginal Items of Heritage*”, as amended by the maps, or sheets of maps, marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of publication on the NSW legislation website. Information about the order of publication can be determined by referring to the Historical notes at the end of the plan.

*Sydney Regional Environmental Plan No 30—St Marys—Non Aboriginal Items of Heritage  
(Amendment No 2)*

*Sydney Regional Environmental Plan No 30—St Marys—Non Aboriginal Items of Heritage  
(Amendment No 3)*

**the Structure Plan** means the map marked “*Sydney Regional Environmental Plan No 30—St Marys—Structure Plan*”, as amended by the maps, or sheets of maps, marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Sydney Regional Environmental Plan No 30—St Marys—Structure Plan (Amendment No 1)*

*Sydney Regional Environmental Plan No 30—St Marys—Structure Plan (Amendment No 2)*

*Sydney Regional Environmental Plan No 30—St Marys—Structure Plan (Amendment No 3)*

**the Zoning Map** means the map marked “*Sydney Regional Environmental Plan No 30—St Marys—Zoning*”, as amended by the maps, or sheets of maps, marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Sydney Regional Environmental Plan No 30—St Marys—Zoning (Amendment No 1)*

*Sydney Regional Environmental Plan No 30—St Marys—Zoning (Amendment No 2)*

*Sydney Regional Environmental Plan No 30—St Marys—Zoning (Amendment No 3)*

**timberyard** means a building or place, not being a sawmill, where timber is stored, displayed or offered for sale.

**tree** has the same meaning—

- (a) in the case of land within the Penrith City local government area, as it does in [Penrith Local Environmental Plan 1998 \(Urban Land\)](#), and
- (b) in the case of land within the Blacktown City local government area, as it does in [Blacktown Local Environmental Plan 1988](#).

**utility installation** means a building or work used for a utility undertaking.

**utility undertaking** means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of—

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage, sewage treatment or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities, or
- (e) water quality control facilities.

**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, but does not include a building or place used for retailing.

**waste disposal** means landfill which involves the filling of land with—

- (a) sludge,
- (b) putrescible waste, or
- (c) waste that includes any substance classified in the *Australian Dangerous Goods Code* or medical, cytotoxic or quarantine waste.

## Schedule 2 Exempt and complying development

(Clause 43)

Column 1	Column 2	Column 3
<b>Zones under this plan</b>	<b>Zones in Blacktown City area</b>	<b>Zones in Penrith City area</b>
Urban	No 2 (a), 3 (a), 5 (a) (with lettering “Carpark”, “Church”, “Drainage”, or “School”), 5 (c) or 6 (a) under <i>Blacktown Local Environmental Plan 1988</i>	No 2 (d), 5 (a) (with lettering “Carpark”, “Church”, “Drainage”, or “School”), 5 (b) or 6 (a) under <i>Penrith Local Environmental Plan 1998 (Urban Land)</i> or B3 Commercial Core or B4 Mixed Use under <i>Penrith City Centre Local Environmental Plan 2008</i>
Road and Road Widening	No 5 (b) or 5 (c) under <i>Blacktown Local Environmental Plan 1988</i>	No 5 (b) or 5 (c) under <i>Penrith Local Environmental Plan 1998 (Urban Land)</i>
Employment	No 4 (a) under <i>Blacktown Local Environmental Plan 1988</i>	No 4 (a) under <i>Penrith Local Environmental Plan 1996 (Industrial Land)</i>
Drainage	No 5 (a) (with lettering “Drainage”) under <i>Blacktown Local Environmental Plan 1988</i>	No 6 (a) under <i>Penrith Local Environmental Plan 1998 (Urban Land)</i>
Regional Open Space	No 6 (c) under <i>Blacktown Local Environmental Plan 1988</i>	No 6 (d) under <i>Penrith Local Environmental Plan 1998 (Urban Land)</i>

## Schedule 3 Development prohibited along The Northern Road

(Clause 58)

Development for the purpose of—

- fast food take-away restaurants,
- motor showrooms,
- restaurants,
- service stations.

## Schedule 4 Retail and commercial development restricted

(Clause 59)

Development for the purpose of—

- clubs,
- fast food take-away restaurants,
- hotels,

local retail or commercial buildings,

medical centres,

restaurants.