

# State Environmental Planning Policy (Biodiversity and Conservation) 2021

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New South Wales

## Status Information

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# State Environmental Planning Policy (Biodiversity and Conservation) 2021



New South Wales

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# State Environmental Planning Policy (Biodiversity and Conservation) 2021



New South Wales

## Chapter 1 Preliminary

### 1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

### 1.2 Commencement

This Policy commences on 1 March 2022 and is required to be published on the NSW legislation website.

### 1.3 Definitions

In this Policy—

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

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

### 1.4 Transferred provisions

The *Interpretation Act 1987*, section 30A is taken to apply to the provisions transferred to this Policy on the commencement of this Policy in the same way as it applies to provisions transferred from a statutory rule to another statutory rule.

**Note—**

The *Interpretation Act 1987*, section 30A provides—

- (a) the transfer of a provision does not affect the operation or meaning of the provision, and
- (b) a transferred provision is to be construed as if it had not been transferred.

## Chapter 2 Vegetation in non-rural areas

### Part 2.1 Preliminary

#### 2.1 Aims of Chapter

The aims of this Chapter are—

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

#### 2.2 Definitions

(1) In this Chapter—

**Allowable Clearing Map** means the [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017 Allowable Clearing Map](#).

**approval** means an approval granted by the Native Vegetation Panel under Part 2.4.

**biodiversity development assessment report**—see section 6.12 of the [Biodiversity Conservation Act 2016](#).

**biodiversity offsets scheme threshold** means the biodiversity offsets scheme threshold referred to in section 7.4 of the [Biodiversity Conservation Act 2016](#), except that, for the purposes of this Chapter, the threshold is to be determined without regard to clause 7.3 (4) of the [Biodiversity Conservation Regulation 2017](#).

**Note—**

Section 7.3 (4) provides that the threshold is not exceeded merely because proposed development (other than subdivision) is to be carried out on a lot included on the *Biodiversity Values Map* if the lot was the result of a subdivision carried out before the commencement of that Act and the lot is within land zoned R1 to R4, RU5, B1 to B8 or IN1 to IN3.

**biodiversity values**—see section 1.5 of the [Biodiversity Conservation Act 2016](#).

**clear** vegetation, includes—

- (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or
- (b) lop or otherwise remove a substantial part of the vegetation.

**landholder** means a person who is the owner of land or who, whether by reason of

ownership or otherwise, is in lawful occupation or possession, or has lawful management or control, of land.

**native vegetation** has the same meaning as in Part 5A of the [Local Land Services Act 2013](#).

**Native Vegetation Panel** means the Native Vegetation Panel established under section 60ZE of the [Local Land Services Act 2013](#).

**non-rural areas** of the State, means the land to which this Chapter applies.

**permit** means a permit issued by a council under Part 2.3.

**private land**, for Part 2.4—see section 2.25.

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

**vegetation** means a tree or other vegetation, whether or not it is native vegetation.

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Chapter.

(2) Notes included in this Chapter do not form part of this Chapter.

### 2.3 Land to which Chapter applies

(1) This Chapter applies to the following areas of the State (the non-rural areas of the State)—

(a) land in the following local government areas—

Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown, Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.

(b) land within the following zones under an environmental planning instrument—

Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone SP1

Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private Recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.

- (2) This Chapter does not apply to national park estate and other conservation areas, or State forestry land, referred to in section 60A (b) and (c) of the *Local Land Services Act 2013*. However, this Chapter applies to land that is any such national park estate and other conservation area only because it is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*.

**Note—**

Part 5A (Land management (native vegetation)) of the *Local Land Services Act 2013* does not apply to non-rural areas to which this Chapter applies.

## 2.4 Relationship to other planning instruments

- (1) This Chapter does not affect the provisions of any other State Environmental Planning Policy or any provisions of a local environmental plan that are mandatory provisions under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) This Chapter prevails to the extent of any inconsistency with any provisions of a local environmental plan that are not mandatory provisions under the *Standard Instrument (Local Environmental Plans) Order 2006*.

**Note—**

This Chapter does not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.

## 2.5 Maps

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace the map, and approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Chapter to the named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Chapter are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

## Part 2.2 Clearing vegetation in non-rural areas

### 2.6 Clearing that requires permit or approval

- (1) A person must not clear vegetation in a non-rural area of the State to which Part 2.3 applies without the authority conferred by a permit granted by the council under that Part.
- (2) A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 2.4.
- (3) Subsection (2) does not apply to clearing on biodiversity certified land under the *Biodiversity Conservation Act 2016*, Part 8.
- (4) Clearing of vegetation is not authorised under this section unless the conditions to which the authorisation is subject are complied with.
- (5) Subsection (4) extends to a condition that imposes an obligation on the person who clears the vegetation that must be complied with before or after the clearing is carried out.
- (6) For the purposes of the Act, section 4.3, clearing vegetation that requires a permit or approval under this Chapter is prohibited if the clearing is not carried out in accordance with the permit or approval.

### 2.7 Clearing that does not require permit or approval

- (1) A permit or approval to clear vegetation is not required under this Chapter if it is clearing of a kind that is authorised under the *Local Land Services Act 2013*, section 600 or Part 5B.
- (2) Despite the *Local Land Services Act 2013*, section 600(a)(i) and (b)(i), subsection (1) does not apply to clearing that is part of or ancillary to the carrying out of exempt development or complying development.
- (3) A permit or approval is not required under this Chapter for—
  - (a) the removal of vegetation that the council is satisfied is a risk to human life or property, or
  - (b) clearing for a traditional Aboriginal cultural activity, other than a commercial cultural activity.
- (4) A permit is not required under this Chapter for the removal of vegetation that the council is satisfied—
  - (a) is dying or dead, and

(b) is not required as the habitat of native animals.

(5) An approval is not required under this Chapter for the removal of vegetation that the Native Vegetation Panel is satisfied—

(a) is dying or dead, and

(b) is not required as the habitat of native animals.

**Note—**

See also Part 2.5, which sets out certain clearing that does not require a permit or approval under this Chapter if the clearing—

(a) is carried out on certain primary production land in Zone R5, E2, E3 or E4, and

(b) complies with the requirements of Part 2.5.

## **2.8 Clearing permitted without development consent**

Clearing of vegetation in a non-rural area of the State is permitted without development consent if—

(a) the clearing—

(i) is not ancillary to the carrying out of other development, and

(ii) does not require a permit or approval, and

(b) the vegetation is not—

(i) a heritage item or an Aboriginal object, or

(ii) located in a heritage conservation area or Aboriginal place of heritage significance.

## **Part 2.3 Council permits for clearing of vegetation in non-rural areas**

### **2.9 Vegetation to which Part applies**

(1) This Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.

(2) A development control plan may make the declaration in any manner, including by reference to any of the following—

(a) the species of vegetation,

(b) the size of vegetation,

(c) the location of vegetation (including by reference to any vegetation in an area shown on a map or in any specified zone),



(d) the presence of vegetation in an ecological community or in the habitat of a threatened species.

(3) This Part also applies to vegetation in a non-rural area of the State that, immediately before the commencement of this subsection, was—

(a) declared by a development control plan to be vegetation to which *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*, Part 3 applies, or

(b) prescribed by a development control plan under the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*, clause 5.9, as in force immediately before 25 August 2017.

### **2.10 Council may issue permit for clearing of vegetation**

(1) A council may issue a permit to a landholder to clear vegetation to which this Part applies in any non-rural area of the State.

(2) A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.

(3) A permit under this Part cannot allow the clearing of vegetation—

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the council is satisfied that the proposed activity—

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

(4) A permit may be granted under this Part subject to any conditions specified in the permit.

### **2.11 Miscellaneous provisions relating to permits**

(1) An application for a permit—

(a) is to be made in the form and manner required by the council, and

(b) is to be accompanied by the application fee (if any) determined by the council.

- (2) The council may request an applicant for a permit to provide the council with such further information about the proposed clearing as the council considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).
- (3) The council may deal with the application if the applicant notifies the council that the information will not be provided or if the information has not been provided within the period specified by the council or within such further period as the council may allow.
- (4) The council is to determine an application for a permit within 28 days after the date on which the application was duly made.
- (5) Any period after the applicant is requested by the council to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the council the information will not be provided) is not to be counted in calculating that 28-day period.
- (6) An application for a permit that has not been determined is taken to have been refused after the expiration of that 28-day period.
- (7) The council may grant or refuse to grant a permit even if the application is taken to have been refused under this section.

#### **2.12 Appeal to Land and Environment Court**

- (1) An applicant for a permit may appeal to the Land and Environment Court against the refusal by a council to grant the permit.
- (2) Any such appeal is to be made within 3 months after the date on which the applicant is notified of the decision or within 3 months after the council is taken to have refused the application (whichever is the later).

### **Part 2.4 Approval of Native Vegetation Panel for clearing native vegetation in non-rural areas**

#### **2.13 Provisions relating to exercise of functions of Panel under this Chapter**

- (1) This section applies in relation to the exercise of the functions of the Native Vegetation Panel under this Chapter.
- (2) The Native Vegetation Panel has the function of determining applications under this Part for approval to clear native vegetation in non-rural areas of the State.
- (3) The Native Vegetation Panel is not subject to the direction or control of the Minister or of any council or other body under the Act.
- (4) The Native Vegetation Panel may delegate the exercise of its functions under this Chapter in relation to any non-rural area of the State to the council of the non-rural

area (other than this power of delegation).

- (5) The Minister may, for the purposes of this Chapter, make arrangements for the provision to the Native Vegetation Panel of staff and facilities of (and information relating to the administration of this Chapter held by) a Public Service agency responsible to the Minister or a council.

#### **2.14 Obtaining approval of Panel for clearing of native vegetation**

- (1) An application may be made to the Native Vegetation Panel by or on behalf of the landholder for approval to clear native vegetation in any non-rural area of the State.
- (2) The Native Vegetation Panel may, in accordance with this Part, grant an approval to clear the native vegetation under this Part or refuse the application.
- (3) An application for approval for the clearing of native vegetation may only be dealt with under this Part if the clearing exceeds the biodiversity offsets scheme threshold.
- (4) An approval may only be granted under this Part if the land is being cleared for a purpose specified in the application for approval and—
  - (a) the land can be used for that purpose without—
    - (i) development consent, other than a complying development certificate, or
    - (ii) State significant infrastructure approval under the Act, and
  - (b) the clearing of the land is not part of an activity that is carried out by, or that requires the approval of, a determining authority within the meaning of Part 5 of the Act.
- (5) In determining an application for approval under this Part, the Native Vegetation Panel is to take into consideration the environmental, social and economic impacts of the proposed clearing (in accordance with the principles of ecologically sustainable development) having regard to the purpose for which the land is to be used after it is cleared. In relation to the environmental impacts, the Native Vegetation Panel is to take into consideration (without limitation) the following—
  - (a) the likely impact of the proposed clearing on biodiversity values as set out in a biodiversity development assessment report that has been submitted by the applicant for the approval in accordance with this Part,
  - (b) whether the clearing of the native vegetation is likely to cause or increase soil erosion, salination, acidification, land slip, flooding, pollution or other adverse land or water impacts,
  - (c) any future clearing of native vegetation on the land that has been duly authorised or notified but not yet carried out.

The Native Vegetation Panel is also to take into consideration any biodiversity or heritage matter that an applicable environmental planning instrument or development control plan requires the Panel to take into consideration in relation to the impact of the proposed clearing.

- (6) The Native Vegetation Panel must refuse to grant approval under this Part if the Panel is of the opinion that the proposed clearing of native vegetation is likely to have serious and irreversible impacts on biodiversity values. ***Serious and irreversible impacts on biodiversity values*** means serious and irreversible impacts on biodiversity values as determined under section 6.5 of the [Biodiversity Conservation Act 2016](#) that would remain after the measures proposed to be taken to avoid or minimise the impact of the proposed clearing on biodiversity values.
- (7) An approval under this Part may be granted subject to such conditions relating to the clearing as are specified in the approval (including in relation to any matter referred to in subsection (5)). However, an approval cannot be granted subject to conditions relating to the use of the land after it has been cleared.
- (8) An approval under this Part may be granted even if part of the clearing is otherwise authorised under section 2.7.
- (9) An approval under this Part may not be granted to carry out forestry operations within the meaning of Part 5B of the [Local Land Services Act 2013](#).
- (10) An approval under this Part may be granted subject to a condition that any development consent that authorises the clearing of native vegetation on the land is surrendered under the Act. Any such development consent may be granted subject to a condition that any approval under this Part is surrendered.
- (11) An application for approval under this Part may be made jointly by or on behalf of a group of landholders. In that case, the application is to be assessed and determined under this Part having regard to the whole area that is the subject of the application.

#### **2.15 Biodiversity development assessment report and retirement of biodiversity credits**

- (1) An approval may only be granted under this Part if a biodiversity development assessment report in respect of the proposed clearing has been obtained by the applicant for that approval and provided to the Native Vegetation Panel.
- (2) The Native Vegetation Panel is to provide the Environment Agency Head under the [Biodiversity Conservation Act 2016](#) with a copy of any biodiversity development assessment report that is submitted to the Native Vegetation Panel in connection with an application for approval.
- (3) If the Native Vegetation Panel decides to grant approval, the conditions of the approval must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class set out in the report (subject to

subsection (4)). The residual impact is the impact after the measures that are required to be carried out by the terms or conditions of the approval to avoid or minimise the impact on biodiversity values of the proposed clearing (being measures on which the report was based).

**Note—**

Division 6 of Part 6 of the *Biodiversity Conservation Act 2016* enables a person who is required under this section to retire biodiversity credits to make a payment instead to the Biodiversity Conservation Fund of the value of the credits in accordance with the offsets payment calculator.

- (4) The Native Vegetation Panel may reduce or increase the number of biodiversity credits that would otherwise be required to be retired if the Panel determines that the reduction or increase is justified having regard to the environmental, social and economic impacts of the proposed clearing and the purpose for which the land is to be used after it is cleared. The Native Vegetation Panel must give reasons for a decision to reduce or increase the number of biodiversity credits.
- (5) An approval under this Part does not authorise the clearing of native vegetation until any obligation under the approval to retire biodiversity credits has been complied with.
- (6) However, an approval under this Part may provide for the staged clearing of native vegetation and for the corresponding staged retirement of the relevant number of biodiversity credits before each such stage of clearing is carried out.
- (7) For the purposes of this Part, the impact on biodiversity values of proposed clearing includes the impact of clearing or retaining dead vegetation on the land concerned, and accordingly the measures required to be carried out by the terms or conditions of an approval may include the retention of dead vegetation.
- (8) This section does not operate to limit the measures that the Native Vegetation Panel may require to avoid or minimise the impacts of proposed clearing or the power of the Native Vegetation Panel to refuse to grant approval because of those impacts.

### **2.16 Modification of approvals of Panel under this Part**

- (1) An application may be made to the Native Vegetation Panel for the modification of an approval granted under this Part to clear native vegetation in any non-rural area of the State. The application may be made by or on behalf of the landholder concerned.
- (2) A further biodiversity development assessment report is to be provided to the Native Vegetation Panel in connection with the application unless the Native Vegetation Panel determines that the application will not increase the impact on biodiversity values.
- (3) The biodiversity development assessment report is to be made in relation to the clearing as proposed to be modified, but is to take into account any measures to avoid, minimise or offset the impacts of the proposed clearing to which the

modification relates that have already been taken in connection with the approval before its modification.

(4) The Native Vegetation Panel may—

- (a) grant the application and modify the approval granted under this Part accordingly, or
- (b) refuse the application.

The Native Vegetation Panel may vary the terms of the modification sought by the applicant.

### **2.17 Application form**

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel)—

- (a) is to be made in the form and manner required by the Panel, and
- (b) is to include any information or documentation required by that form.

### **2.18 Fees for applications**

- (1) The Native Vegetation Panel may charge a fee for an application for approval under this Part, but not exceeding—
  - (a) \$3,000 if the area proposed to be cleared is less than 5 hectares, or
  - (b) \$9,000 if the area proposed to be cleared is 5 hectares or more.
- (2) The Native Vegetation Panel may also charge a fee for an application for the modification of an approval under this Part, but not exceeding the fee that may be charged under Part 5A of the [Local Land Services Act 2013](#) in connection with a similar application under Division 6 of that Part.

### **2.19 Information required in application for approval by Panel or modification of approval**

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel) under this Part that seeks to vary like-for-like credit retirement obligations specified in the biodiversity development assessment report is to include information about the reasonable steps that the applicant has taken to secure the like-for-like biodiversity credits.

### **2.20 Panel may request further information about an application for approval or modification of approval**

- (1) The Native Vegetation Panel may request an applicant for approval to clear native vegetation, or for the modification of an approval of the Panel, under this Part to provide the Panel with such further information about the proposed clearing or the

proposed modification as the Panel considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).

- (2) The request—
  - (a) must be writing, and
  - (b) may specify a reasonable period within which the information must be provided to the Native Vegetation Panel, and
  - (c) must include notice of the effect of a failure to provide the information on the determination of the application and on the applicant's rights of appeal with respect to the application.
- (3) The Native Vegetation Panel may deal with the application if the applicant notifies the Panel in writing that the information will not be provided or if the information has not been provided within the period specified by the Panel or within such further period as the Panel may allow.

#### **2.21 Time for dealing with applications for approval or modification of approval**

- (1) The Native Vegetation Panel is to determine an application for approval to clear native vegetation (or to modify an approval of the Panel) under this Part within 90 days after the date on which the application was duly made.
- (2) Any period after the applicant is requested by the Native Vegetation Panel to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the Panel the information will not be provided) is not to be counted in calculating that 90-day period.
- (3) An application for approval (or the modification of an approval) that has not been determined is taken to have been refused after the expiration of that 90-day period.
- (4) The Native Vegetation Panel may grant or refuse to grant an application even if the application is taken to have been refused under this section.

#### **2.22 Appeal against approval decisions of Panel**

- (1) A landholder may appeal to the Land and Environment Court against a decision to refuse an application by the landholder for approval under this Part or for the modification of any such approval or against a decision to impose a condition of any such approval.
- (2) Any such appeal is to be made within 6 months after the date on which the applicant is notified of the decision or within 6 months after the Panel is taken to have refused the application (whichever is the later).

- (3) In this section, a reference to a landholder includes a reference to a person who makes a relevant application on behalf of the landholder.

### **2.23 Lapsing of approval**

- (1) An approval of the Native Vegetation Panel to clear native vegetation lapses 5 years after the date from which it operates.
- (2) Any such approval does not lapse if the clearing is commenced before the date on which the approval would otherwise lapse.
- (3) The Native Vegetation Panel may set out, in any such approval, circumstances in which clearing is or is not taken to be commenced for the purposes of this section.

### **2.24 Miscellaneous provisions relating to approvals of Panel**

- (1) An approval under this Part applies to the clearing of native vegetation by or on behalf of the landholder to whom it was granted and by or on behalf of any other person who becomes a landholder of the land concerned after the approval was granted.
- (2) If an application for approval (or for the modification of an approval) under this Part is refused by the Native Vegetation Panel, the applicant is to be given the reasons for the decision.
- (3) An approval of the Native Vegetation Panel to clear native vegetation operates from the date the approval is granted or, if a later date is specified in the approval, from that later date. If an application for approval is refused and the Land and Environment Court decides to grant approval on appeal, the decision is taken to be an approval granted by the Native Vegetation Panel and operates from the date of that decision.
- (4) To avoid doubt, the Native Vegetation Panel is not a determining authority for the purposes of Part 5 of the Act when granting or modifying an approval under this Part.

## **Part 2.5 Clearing of native vegetation on primary production land in Zones R5, E2, E3 and E4 that does not require permit or approval**

### **Division 1 Preliminary**

#### **2.25 Definitions**

- (1) In this Part—  
**private land** has the same meaning as in the [Local Land Services Act 2013](#).
- (2) In this Part, a reference to land in Zone R5, E2, E3 or E4 is a reference to the following zones under an environmental planning instrument that applies to the land—
  - (a) Zone R5 Large Lot Residential,



- (b) Zone E2 Environmental Conservation,
- (c) Zone E3 Environmental Management,
- (d) Zone E4 Environmental Living.

### **2.26 General requirements**

- (1) This Part sets out the clearing of native vegetation that does not require a permit or approval under this Chapter.
- (2) A permit or approval is not required to clear native vegetation under this Chapter only if the requirements of this Part that apply to the clearing are complied with.
- (3) The clearing must be carried out by or on behalf of the landholder, unless otherwise provided.
- (4) The clearing must be carried out in a way that minimises the risk of soil erosion.
- (5) The clearing must be carried out only to the minimum extent necessary for the purpose for which the clearing is carried out.
- (6) This Part does not authorise the clearing of native vegetation on land that is subject to an order under the *Biodiversity Conservation Act 2016*, Part 11.

### **2.27 Measurement of maximum distances for clearing**

- (1) In this Part, the maximum distance of clearing of native vegetation means—
  - (a) for linear infrastructure—the total width of the clearing, or
  - (b) for fixed point infrastructure—the maximum distance of the clearing measured from the perimeter of the infrastructure.
- (2) The maximum distance of clearing for fixed point infrastructure includes the area on which the infrastructure is located in addition to the maximum distance of the clearing from the perimeter of the infrastructure.
- (3) The maximum distances of clearing of native vegetation are not cumulative.
- (4) If the maximum distance for an item of infrastructure overlaps with the maximum distance for another item of infrastructure, the distances are not to be combined.
- (5) A maximum distance of clearing specified in this Part in relation to an item of infrastructure on a landholding applies even if part of the clearing within the maximum distance is carried out on an adjoining landholding.

### **2.28 Separate items of infrastructure to be constructed to reduce overall distance of**

### **clearing**

This Part does not apply to clearing for an item of infrastructure constructed by a landholder on the same landholding as another item of infrastructure for which clearing may be carried out without a permit or approval under this Part if—

- (a) the item of infrastructure could have been constructed closer to the other item of infrastructure to reduce the overall distance of the clearing for both items of infrastructure to the smallest overall distance, and
- (b) the landholder does not provide a reasonable justification for the location of the item of infrastructure constructed by the landholder.

## **Division 2 Clearing in Zones R5, E2, E3 and E4**

### **2.29 Land to which Division applies**

This Division applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

- (a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and
- (b) in Zone R5, E2, E3 or E4.

### **2.30 Clearing for construction and maintenance of fences and farm tracks**

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for—
  - (a) the construction of a permanent boundary fence, or
  - (b) the maintenance of—
    - (i) an existing permanent boundary fence, or
    - (ii) an existing permanent internal fence, or
    - (iii) an existing farm track.

#### **Note—**

See section 2.36 in relation to clearing for the construction of a farm track on land in Zones R5, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

### **2.31 Clearing for maintenance of water supply and gas infrastructure**

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of an existing public utility associated with water supply infrastructure or gas supply infrastructure.

- (2) The clearing must be carried out by or on behalf of—
  - (a) the owner of the infrastructure, or
  - (b) the landholder.

### **2.32 Clearing for maintenance of telecommunications infrastructure**

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of existing telecommunications infrastructure.
- (2) The clearing must be carried out by or on behalf of—
  - (a) the owner of the infrastructure, or
  - (b) the landholder.

### **2.33 Clearing for maintenance of electricity transmission infrastructure**

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the maintenance of an existing public utility associated with the transmission of electricity (an **electricity utility**).
- (2) Maintenance of an electricity utility includes the following activities only if the activity is carried out by or at the written direction of a relevant person—
  - (a) maintaining the necessary safety clearance—
    - (i) under power lines, conductors and structures, and
    - (ii) around communication sites associated with the supply of electricity,
  - (b) minimising fuel loads under power lines to minimise the chance of smoke from a fire resulting in a line trip,
  - (c) maintaining existing access roads and tracks.
- (3) Maintenance of an electricity utility does not include the following—
  - (a) the construction of a new access road or track,
  - (b) the removal of low growing groundcover,
  - (c) maintaining a safety clearance from power lines that exceeds either of—
    - (i) the maximum clearing distance, or
    - (ii) the minimum distance that will ensure reliability of supply under all loading and environmental conditions and minimise the risk of arcing.
- (4) In this section—

**maximum clearing distance** means the distance specified in the following table for the voltage of the power line—

<b>Nominal operating voltage of power line</b>	<b>Maximum clearing distance</b>
Not more than 11 kV	20 metres
Above 11 kV up to and including 33 kV	25 metres
Above 33 kV up to and including 66 kV	30 metres
Above 66 kV up to and including 132 kV	45 metres
Above 132 kV up to and including 330 kV	60 metres
Above 330 kV	70 metres

**relevant person** means the person or body—

- (a) in which the electricity utility is vested, or
- (b) that has the responsibility for the electricity utility's safe operation.

### **2.34 Clearing for maintenance and operation of private power lines**

A permit or approval to clear native vegetation is not required under this Chapter if the clearing is reasonably necessary for the maintenance or operation of existing privately owned power lines on private land.

**Note—**

See section 2.39 in relation to clearing for the construction of privately owned power lines on private land in Zones R5, E3 and E4.

## **Division 3 Clearing in Zones R5, E3 and E4**

### **2.35 Land to which Division applies**

This Part applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

- (a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and
- (b) in Zone R5, E3 or E4.

### **2.36 Clearing for construction of farm tracks**

(1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the construction of a farm track if—

- (a) the farm track is reasonably required to access sites within or on the other side of

the land, and

- (b) the route of the farm track minimises the clearing that is required to be carried out.

**Note—**

See section 2.30 in relation to clearing for the maintenance of an existing farm track on land in Zones R5, E2, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

### **2.37 Clearing of planted native vegetation**

- (1) A permit or approval to clear native vegetation that has been planted is not required under this Chapter if the clearing complies with the requirements of this section.
- (2) If the clearing is carried out on land to which a private native forestry plan applies and native vegetation has been planted as part of stocking or regeneration requirements, the stocking or regeneration requirements must be met.
- (3) The clearing must not be carried out on land within a buffer distance from a water body, within the meaning of the [Land Management \(Native Vegetation\) Code 2018](#), clause 15.
- (4) This section does not apply if the native vegetation was planted with the assistance of public funds granted for a purpose other than for forestry purposes.
- (5) In this section—

**Land Management (Native Vegetation) Code 2018** means the [Land Management \(Native Vegetation\) Code 2018](#) under the [Local Land Services Act 2013](#), Part 5A, Division 5 as in force on 5 December 2019.

**private native forestry plan** has the same meaning as in the [Local Land Services Act 2013](#), Part 5B.

**stocking or regeneration requirements** means stocking or regeneration requirements that apply under—

- (a) a private native forestry code of practice, within the meaning of the [Local Land Services Act 2013](#), Part 5B, or
- (b) a direction given or requirement made by the Environment Protection Authority.

### **2.38 Clearing for environmental protection works**

- (1) A permit or approval to clear native vegetation is not required under this Chapter if the clearing is for the purpose of environmental protection works.

- (2) For the purposes of this section, **environmental protection works** are—
  - (a) works associated with the rehabilitation of land towards its natural state, and
  - (b) works to protect land from environmental degradation.
- (3) Environmental protection works include the following—
  - (a) re-vegetation or bush regeneration works,
  - (b) wetland protection works,
  - (c) erosion protection works,
  - (d) dune restoration work.
- (4) Environmental protection works do not include coastal protection works, within the meaning of the *Coastal Management Act 2016*.

### **2.39 Clearing for construction of private power lines**

A permit or approval to clear native vegetation is not required under this Chapter if the clearing is reasonably necessary for the construction of privately owned power lines on private land.

**Note—**

See section 2.34 in relation to the maintenance and operation of existing privately owned power lines on private land in Zones R5, E2, E3 and E4.

## **Chapter 3 Koala habitat protection 2020**

### **Part 3.1 Preliminary**

#### **3.1 Aims of Chapter**

This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

#### **3.2 Definitions**

In this Chapter—

**core koala habitat** means an area of land with a resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population.

**guidelines** means the guidelines, as in force from time to time, made for the purposes of this Chapter by the Planning Secretary.

**Planning for Bush Fire Protection** means the document prescribed by the [Environmental Planning and Assessment Regulation 2021](#), section 271.

**potential koala habitat** means areas of native vegetation where trees of the types listed in Schedule 1 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

### 3.3 Land to which Chapter applies

(1) This Chapter applies to land in the following land use zones, or an equivalent land use zone, in a local government area specified in Schedule 1 of [State Environmental Planning Policy \(Koala Habitat Protection\) 2021](#), but not if the local government area is marked with an \* in that Schedule—

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry.

(1A) This Chapter does not apply to certified urban capable land within the meaning of Chapter 13.

(2) In this section—

**equivalent land use zone** has the same meaning as it has in [State Environmental Planning Policy \(Koala Habitat Protection\) 2021](#).

### 3.4 Exempt land

(1) The objective of this section is to enable the clearing of feed tree species to create an asset protection zone as part of the replacement of a lawfully erected dwelling house that has been damaged or destroyed by a bush fire.

(2) This Chapter does not apply to land forming part of an asset protection zone cleared for a dwelling house if—

(a) the dwelling house is replacing a lawfully erected dwelling house damaged or destroyed by a bush fire, and

(b) the development application for the replacement dwelling house is made to the consent authority no later than 5 years after the day the bush fire caused the

damage or destruction, and

- (c) the asset protection zone is cleared in accordance with Planning for Bush Fire Protection.

## **Part 3.2 Development control of koala habitats**

### **3.5 Land to which this Part applies**

This Part applies to land—

- (a) that is land to which this Chapter applies, and
- (b) that is land in relation to which a development application has been made, and
- (c) that, whether or not the development application applies to the whole, or only part, of the land—
  - (i) has an area of more than 1 hectare, or
  - (ii) has, together with adjoining land in the same ownership, an area of more than 1 hectare.

### **3.6 Step 1—Is the land potential koala habitat?**

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies, the council must be satisfied as to whether or not the land is a potential koala habitat.
- (2) The council may be satisfied as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification.
- (3) If the council is satisfied—
  - (a) that the land is not a potential koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or
  - (b) that the land is a potential koala habitat, it must comply with section 3.7.

### **3.7 Step 2—Is the land core koala habitat?**

- (1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself as to whether or not the land is a core koala habitat.
- (2) The council may be satisfied as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.



- (3) If the council is satisfied—
  - (a) that the land is not a core koala habitat, it is not prevented, because of this Chapter, from granting consent to the development application, or
  - (b) that the land is a core koala habitat, it must comply with section 3.8.

### **3.8 Step 3—Can development consent be granted in relation to core koala habitat?**

- (1) Before granting consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.
- (2) The council's determination of the development application must not be inconsistent with the plan of management.

### **3.9 Guidelines—matters for consideration**

Without limiting section 3.15, a council must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.

## **Part 3.3 Plans of management**

### **3.10 Preparation of plan of management**

- (1) A plan of management may be prepared for—
  - (a) all land to which this Chapter applies in a local government area,
  - (b) a part of that land, including an area of land that is the subject of a development application.
- (2) Anyone, including a council, may prepare a plan of management.
- (3) A plan of management is to be prepared in accordance with the guidelines.

### **3.11 Approval of plan of management**

- (1) A plan of management prepared by a council has no effect unless it is approved by the Planning Secretary.
- (2) A plan of management prepared by a person other than a council has no effect unless it is approved by the council for the relevant local government area and by the Planning Secretary.
- (3) A plan of management takes effect on the day it is approved by the Planning Secretary or on a later day specified in it for the purpose.

### **3.12 Amendment or repeal of plan of management**

A plan of management may be amended or repealed by another plan of management prepared and approved in accordance with this Part.

## **Part 3.4 Other environmental planning measures**

### **3.13 Surveys, environment protection zones and development control plans**

- (1) In order to give effect to the aims of this Chapter, a council of a local government area in which there is land to which this Chapter applies must—
  - (a) survey the land so as to identify areas of potential koala habitat and core koala habitat, and
  - (b) consider making or amending a local environmental plan—
    - (i) to include land identified as a core koala habitat within an environment protection zone, or
    - (ii) to identify land that is a core koala habitat and apply special provisions to control the development of that land, and
  - (c) consider preparing an appropriate development control plan for land that is or adjoins a core koala habitat.
- (2) Subsection (1)(a) does not apply to a council that has, before the commencement of this section, carried out a survey to identify areas of potential koala habitat and core koala habitat in relation to the whole of its local government area.

### **3.14 Preparation of local environmental studies**

- (1) If, under a planning proposal, a council proposes to zone or rezone land that is a potential koala habitat or a core koala habitat otherwise than as an environment protection zone, the Minister may require the council to prepare an environmental study of the land.
- (2) The council must prepare the environmental study in accordance with the specifications, if any, relating to the form, content and preparation of the study as have been notified to the council by the Minister.
- (3) The environmental study must be prepared with regard to the matters, relating to the environment of the land, as determined by the council, subject to the specifications.
- (4) The council must have regard to an environmental study prepared under this section in preparing the proposed instrument to which the planning proposal relates.
- (5) Subsection (1) does not apply if a council has, before the commencement of the subsection, prepared an environmental study of the land.

### 3.15 Guidelines—generally

- (1) In exercising a function under this Chapter, a council must take into consideration the guidelines that are relevant to the exercise of the function.
- (2) Anyone may inspect the guidelines free of charge at an office of the Department during the hours when the office is open to the public.

## Part 3.5 Savings and repeal provisions

### 3.16 Savings provision relating to plans of management

The following are taken to be plans of management made under this Chapter—

- (a) a plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that was kept in force by clause 16 of *State Environmental Planning Policy (Koala Habitat Protection) 2019*,
- (b) a koala plan of management approved under *State Environmental Planning Policy (Koala Habitat Protection) 2019* and in force immediately before the repeal of that Policy.

## Chapter 4 Koala habitat protection 2021

### Part 4.1 Preliminary

#### 4.1 Aim of Chapter

This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

**Editorial note—**

Guidelines are being made by the Planning Secretary with the agreement of the Secretary of Regional NSW for the purposes of Parts 4.2 and 4.3 of this Chapter. When the Guidelines are made this Chapter is to be amended to incorporate references to the Guidelines.

#### 4.2 Definitions

- (1) In this Chapter—

**approved koala plan of management**, for land, means a koala plan of management for the land approved in accordance with section 4.14.

**core koala habitat** means—

- (a) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas are recorded as being present at the time of assessment of the land as highly suitable koala habitat, or

- (b) an area of land which has been assessed by a suitably qualified and experienced person as being highly suitable koala habitat and where koalas have been recorded as being present in the previous 18 years.

**equivalent land use zone**—see section 4.3.

**former Koala SEPP**, in relation to land to which this Chapter applies, means the following—

- (a) [State Environmental Planning Policy No 44—Koala Habitat Protection](#),  
(b) [State Environmental Planning Policy \(Koala Habitat Protection\) 2019](#),  
(c) [State Environmental Planning Policy \(Koala Habitat Protection\) 2020](#).

**koala habitat** means koala habitat however described in a plan of management under this Chapter or a former Koala SEPP and includes core koala habitat.

**Planning for Bush Fire Protection** means the document prescribed by the [Environmental Planning and Assessment Regulation 2021](#), section 271.

**suitably qualified and experienced person** means a person who has—

- (a) a tertiary qualification in ecology, environmental management, forestry or other equivalent qualifications, and  
(b) experience in flora and fauna identification, survey and management, including experience in conducting koala surveys.

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

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Chapter.

- (2) Notes included in this Chapter do not form part of this Chapter.

### 4.3 Equivalent land use zones

- (1) A non-standard zone is an **equivalent land use zone** to 1 of the following land use zones (a **standard zone**) if the land uses specified for the standard zone are permitted in the non-standard zone—

<b>Land use zone</b>	<b>Permitted land uses</b>
RU1 Primary Production	Primary production, including agriculture and a diverse range of primary industry enterprises
RU2 Rural Landscape	Compatible rural land uses, including extensive agriculture

RU3 Forestry

Forestry land uses and other development compatible with forestry land uses

- (2) The Planning Secretary may declare, by order published in the Gazette, that a non-standard zone is equivalent to a standard zone.
- (3) The order is conclusive that the non-standard zone is an equivalent land use zone to the standard zone.
- (4) In this section—

**non-standard zone** means a land use zone in a local environmental planning instrument that was not made in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.

#### 4.4 Land to which Chapter applies

- (1) This Chapter applies to each local government area listed in Schedule 2.
- (2) The whole of each local government area is—
  - (a) in the koala management area specified in Schedule 2 opposite the local government area, or
  - (b) if more than 1 koala management area is specified, in each of those koala management areas.
- (3) Despite subsection (1), this Chapter does not apply to—
  - (a) land dedicated or reserved under the [National Parks and Wildlife Act 1974](#), or acquired under Part 11 of that Act, or
  - (b) land dedicated under the [Forestry Act 2012](#) as a State forest or a flora reserve, or
  - (c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the [Biodiversity Conservation Act 2016](#), or
  - (d) land in the following land use zones, or an equivalent land use zone, unless the zone is in a local government area marked with an \* in Schedule 2—
    - (i) Zone RU1 Primary Production,
    - (ii) Zone RU2 Rural Landscape,
    - (iii) Zone RU3 Forestry.

#### 4.5 Relationship with other environmental planning instruments

In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before or after the commencement of this Chapter,

this Chapter prevails to the extent of the inconsistency.

#### **4.6 Exempt land**

- (1) The objective of this section is to enable the clearing of koala use tree species to create an asset protection zone as part of the replacement of a lawfully erected dwelling house that has been damaged or destroyed by a bush fire.
- (2) This Chapter does not apply to land forming part of an asset protection zone cleared for a dwelling house if—
  - (a) the dwelling house is replacing a lawfully erected dwelling house damaged or destroyed by a bush fire, and
  - (b) the development application for the replacement dwelling house is made to the consent authority no later than 5 years after the day the bush fire caused the damage or destruction, and
  - (c) the asset protection zone is cleared in accordance with Planning for Bush Fire Protection.

#### **4.7 Maps**

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

#### **Note—**

The maps adopted by this Chapter are to be deposited in the head office of the Department of Planning, Industry and Environment and made available for public access.

## **Part 4.2 Development control of koala habitats**

### **4.8 Development assessment process—approved koala plan of management for land**

- (1) This section applies to land to which this Chapter applies and to which an approved koala plan of management applies.
- (2) The council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.

### **4.9 Development assessment process—no approved koala plan of management for land**

- (1) This section applies to land to which this Chapter applies if the land—
  - (a) has an area of at least 1 hectare (including adjoining land within the same ownership), and
  - (b) does not have an approved koala plan of management applying to the land.
- (2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.
- (3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.
- (4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.
- (5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—
  - (a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—
    - (i) does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area, or
    - (ii) is not core koala habitat, or
  - (b) information the council is satisfied demonstrates that the land subject of the development application—
    - (i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or
    - (ii) includes only horticultural or agricultural plantations.

(6) In this section—

***koala assessment report***, for development, means a report prepared by a suitably qualified and experienced person about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts.

#### **4.10 Development assessment process—other land**

A council is not prevented from granting consent to a development application for consent to carry out development on land if—

- (a) the land does not have an approved koala plan of management applying to the land, or
- (b) the council is satisfied that the land is not core koala habitat.

### **Part 4.3 Koala plans of management**

#### **4.11 Preparation of koala plans of management**

- (1) A koala plan of management may be prepared for—
  - (a) the whole of a local government area listed in Schedule 2, or
  - (b) a part of a local government area listed in Schedule 2.
- (2) A koala plan of management must be prepared—
  - (a) on behalf of a council by a suitably qualified and experienced person, and
  - (b) having regard to a survey of the land for core koala habitat conducted by a suitably qualified and experienced person.
- (3) A koala plan of management may—
  - (a) be a separate document or be part of another document, and
  - (b) provide for additional matters, whether or not the matters are directly related to the assessment of a development application by the council.
- (4) Land may be identified in a koala plan of management if—
  - (a) the land is identified on the *Site Investigation Area for Koala Plans of Management Map* as an area where this Chapter applies, and
  - (b) the land is core koala habitat.
- (5) In this section—

***Site Investigation Area for Koala Plans of Management Map*** means the *State*



*Environmental Planning Policy (Koala Habitat Protection) 2021—Site Investigation Area for Koala Plans of Management Map.*

**4.12 Consultation on koala plans of management**

In preparing a koala plan of management, a council, on behalf of which the plan of management has been prepared, must consult the Chief Executive Officer of Local Land Services and a Public Service employee designated by the Minister for Energy and Environment.

**4.13 Public exhibition of draft koala plans of management**

Following the preparation of a draft koala plan of management, the council—

- (a) must publicly exhibit the draft koala plan of management for a minimum period of 90 days, and
- (b) must give public notice on the council's website and in a local newspaper of the places, dates and times for inspection of the draft koala plan of management, and
- (c) must publicly exhibit a copy of the draft koala plan of management at the places, on the dates and during the times set out in the notice, and
- (d) must serve notice of the places, dates and times for inspection of the draft koala plan of management on landholders whose land is identified under clause 12(4) in the draft koala plan of management—
  - (i) by post, or
  - (ii) by email to an email address specified by the landholder for the service of notices by the council, and
- (e) must specify, in the notices referred to in paragraphs (b) and (d), the period during which submissions about the draft koala plan of management may be made to the council (which must include the period during which the draft koala plan of management is being publicly exhibited).

**4.14 Approval of koala plans of management**

- (1) A koala plan of management prepared in accordance with section 4.11 has no effect unless it is approved by the Planning Secretary.
- (2) The council on behalf of which the koala plan of management has been prepared must provide the following to the Planning Secretary—
  - (a) a report on submissions received as a result of the public consultation under section 4.13,
  - (b) a report on the survey of the land made under section 4.11(2)(b),

- (c) any other documents that informed the preparation of the koala plan of management.
- (3) Before approving a koala plan of management, the Planning Secretary must provide the following to the Chief Executive Officer of Local Land Services and a Public Service employee designated by the Minister for Energy and Environment for comment—
  - (a) a copy of the draft koala plan of management,
  - (b) a copy of the report on submissions,
  - (c) a copy of the report on the survey of the land made under section 4.11(2)(b),
  - (d) any other documents that informed the preparation of the koala plan of management.
- (4) Before approving a koala plan of management, the Planning Secretary must obtain the concurrence of the Secretary of Regional NSW.
- (5) Before approving a koala plan of management submitted for approval under this section, the Planning Secretary may—
  - (a) request that amendments be made to the koala plan of management, and
  - (b) approve the koala plan of management conditional on the making of those amendments.
- (6) To avoid doubt, a koala plan of management conditionally approved under subsection (5)(b) is taken to be approved by the Planning Secretary on the making of those amendments.
- (7) A koala plan of management takes effect on—
  - (a) the day it is approved by the Planning Secretary, or
  - (b) if a later day is specified in the plan of management—the later day.

#### **4.15 Subsequent koala plans of management**

- (1) An approved koala plan of management may be amended or replaced by a subsequent koala plan of management prepared and approved in accordance with this Part.
- (2) The subsequent koala plan of management must be exhibited in accordance with this Part if the council is directed to do so by the Planning Secretary.

## **Part 4.4 Savings and transitional provisions**

### **4.16 Existing development applications**

A development application made in relation to land, but not finally determined before this Chapter applied to the land, must be determined as if this Chapter had not commenced in its application to the land.

### **4.17 Documents taken to be koala plans of management**

- (1) A plan of management approved under a former Koala SEPP in relation to the whole of a local government area or a part of a local government area and in force immediately before this Chapter is taken to be an approved koala plan of management.
- (2) The following documents published on the NSW planning portal are taken to be approved koala plans of management and may be renamed accordingly—
  - (a) *Byron Shire Draft koala plan of management*,
  - (b) *Tweed Shire Draft koala plan of management*.
- (3) An approved koala plan of management under this section applies to the land specified in the koala plan of management and accordingly section 4.8 extends to apply to that land.

### **4.18 Documents submitted as plans of management**

- (1) This section applies to a document submitted to the Planning Secretary—
  - (a) for approval as a koala plan of management in relation to the whole of a local government area or a part of a local government area, and
  - (b) before this Chapter applied to the local government area.
- (2) Before approving a koala plan of management submitted for approval under this section, the Planning Secretary may—
  - (a) request that amendments be made to the koala plan of management, and
  - (b) approve the koala plan of management conditional on the making of those amendments.
- (3) To avoid doubt, a koala plan of management conditionally approved under subsection (2)(b) is taken to be approved by the Planning Secretary on the making of those amendments.
- (4) Despite sections 4.11–4.14, the Planning Secretary may approve the document as a koala plan of management for the local government area or part of the local government area.

- (5) To avoid doubt, the Planning Secretary may approve the document as a koala plan of management despite the document not having been prepared in accordance with the provisions of a former Koala SEPP.
- (6) On approval, the document is taken to be an approved koala plan of management.

## **Chapter 5 River Murray lands**

### **Part 5.1 Introduction**

#### **5.1 Aims of this Chapter**

The aims of this Chapter are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

#### **5.2 Objectives of this Chapter**

The objectives of this Chapter are—

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and
- (b) to establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray, and
- (c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.

**Note—**

Further information about the objectives of this Chapter and how it operates may be obtained from information included with the copy of this Chapter published by the Department of Planning.

#### **5.3 Where this Chapter applies**

This Chapter applies to the land shown on the map, that is the riverine land of the River Murray within the City of Albury and the areas of Balranald, Berrigan, Conargo, Corowa, Deniliquin, Hume, Murray, Wakool, Wentworth and Windouran.

#### **5.4 How this Chapter affects other plans**

- (1) This Chapter—
  - (a) replaces *Murray Regional Environmental Plan No 1—Murray River Riparian Land* (which is accordingly repealed).
- (2) The application of this Chapter to land to which *State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas* applies is modified by clause 5 of that Policy which provides that the Policy prevails to the extent of any inconsistency with this Chapter and that, to remove any doubt—

- (a) Part 5.2 of this Chapter applies—
  - (i) when a consent authority determines a development application required by that Policy for land to which this Chapter applies, and
  - (ii) when a public authority or person proposes to carry out (on land to which this Chapter applies) development which does not require consent because of that Policy but which has the potential to adversely affect the riverine environment of the River Murray, and
- (b) such of the provisions of Part 5.3 as provide for consultation by a consent authority apply when development defined in the Planning Control and Consultation Table in that Part is required to be carried out with consent because of that Policy.
- (3) If this Chapter is inconsistent with another regional environmental plan or a local environmental plan, then this Chapter prevails to the extent of the inconsistency.
- (4) However, this Chapter does not permit development which is prohibited by another environmental planning instrument.
- (5) This Chapter contains planning principles to help councils prepare local environmental plans that apply to the riverine land of the River Murray.

## 5.5 Definitions

- (1) The Dictionary at the end of this Chapter defines words and expressions used in this Chapter.
- (2) In this Chapter—

**development** means both development requiring consent and development not requiring consent.

**Murray River** means the waters of the main channel of the Murray River and its bed and banks.

**River Murray** means the Murray River, the waters and the bed and banks of its tributaries and associated water bodies (including related anabranches, creeks, lagoons, lakes, billabongs and wetlands), as shown on the map.

## 5.6 Notes

Notes in this Chapter do not form part of this Chapter but are included to assist in the understanding of this Chapter.

## **Part 5.2 Planning principles**

### **5.7 When planning principles should be applied**

This Part applies when—

- (a) a consent authority determines a development application, or
- (b) a public authority or person proposes to carry out development which does not require development consent but which has the potential to adversely affect the riverine environment of the River Murray.

### **5.8 General principles**

When this Part applies, the following must be taken into account—

- (a) the aims, objectives and planning principles of this Chapter,
- (b) any relevant River Management Plan,
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,
- (d) the cumulative impact of the proposed development on the River Murray.

### **5.9 Specific principles**

When this Part applies, the following must be taken into account—

#### **Access**

- \* The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.
- \* Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.
- \* Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.

#### **Bank disturbance**

- \* Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.

#### **Flooding**

- \* Where land is subject to inundation by floodwater—

- (a) the benefits to riverine ecosystems of periodic flooding,
- (b) the hazard risks involved in developing that land,
- (c) the redistributive effect of the proposed development on floodwater,
- (d) the availability of other suitable land in the locality not liable to flooding,
- (e) the availability of flood free access for essential facilities and services,
- (f) the pollution threat represented by any development in the event of a flood,
- (g) the cumulative effect of the proposed development on the behaviour of floodwater, and
- (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.

- \* Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.

#### **Land degradation**

- \* Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.

#### **Landscape**

- \* Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.

#### **River related uses**

- \* Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.
- \* Development which would intensify the use of riverside land should provide public access to the foreshore.

#### **Settlement**

- \* New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located—

- (a) on flood free land,
- (b) close to existing services and facilities, and
- (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.

#### **Water quality**

- \* All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.

#### **Wetlands**

- \* Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values.

Land use and management decisions affecting wetlands should—

- (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,
- (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,
- (c) control human and animal access, and
- (d) conserve native plants and animals.

#### **Note—**

The above principles will also be relevant for determining authorities when they carry out their environmental assessment functions under Part 5 of the Act for activities which may impact on the River Murray.

## **Part 5.3 Planning requirements and consultation**

### **5.10 Consultation—who consults and procedure for consultation**

- (1) Consultation required by this Part must be carried out—
  - (a) if development consent is required—by the consent authority before determining the development application, or
  - (b) if development consent is not required—by the public authority or person carrying out the development, before carrying out the development.
- (2) Consultation by an authority or person with a listed agency must be carried out as follows—



- (a) the authority or person must write to the listed agency giving a description of the proposed development,
- (b) the authority or person must request the listed agency to comment on the proposed development within 21 days from the date the agency receives the notice,
- (c) the authority or person must consider any comments made on the proposed development by the listed agency within those 21 days.

### 5.11 General provisions for consultation

- (1) Consultation is required for development in the circumstances set out in this section. Further consultation requirements are included in the Planning Control and Consultation Table (section 5.12).
  - (a) Where development is contrary to the aims, objectives or principles of this Chapter and may have a significant environmental effect along the Murray River—the P&D (Vic), C&NR (Vic) and the adjacent local Council in Victoria must be consulted.
  - (b) Where development may affect boating safety—Transport for NSW must be consulted.
- (2) Nothing in this Chapter prevents consultation with any other relevant agencies or groups appropriate to the circumstances.
- (3) Consultation is not required under this Chapter where a River Management Plan identifies work as being of a minor or routine nature.

**Note—**

**River Management Plan** is defined in the Dictionary.

Clause 46 of the *Murray-Darling Basin Agreement 1992* requires matters, which may significantly affect the flow, use and control of water in the River Murray, to be referred to the Murray-Darling Basin Commission. The Commission should be notified when consents or approvals are granted for development where any consultation has taken place under this Chapter.

### 5.12 Planning Control and Consultation Table

- (1) The Planning Control and Consultation Table at the end of this section deals with development defined in that Table.
- (2) Under **Planning control**—
  - (a) **Council consent** means that the development may only be carried out with the consent of the relevant council.

**Note—**

This paragraph does not allow consent to be granted to development prohibited by another

environmental planning instrument, see section 5.4(4).

(b) **Prohibited** means the development must not be carried out (either generally or only in the circumstances specified).

(c) **Designated development** means that the development is declared to be designated development for the purposes of the Act.

(3) Under **Consultation**, the names of the agencies to be consulted are listed.

(4) Under **Specific matters for consideration**, matters are listed for consideration by the consent authority when determining a development application or (if consent is not required) by the public authority or person concerned before carrying out the development.

(5) In this section—

**flood planning area** has the same meaning as it has in the Floodplain Development Manual.

**Floodplain Development Manual** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

Planning Control and Consultation Table

## 1 ARTIFICIAL LAKE

### Definition—

A constructed water body such as an artificial wetland, but does not include dams of less than 1 hectare in surface area used for agricultural purposes or land flood irrigated for agriculture.

### Planning control—

\* Council consent.

### Specific matters for consideration—

Potential for artificial water bodies to have an effect on the watertable.

## 2 AQUACULTURE

### Definition—

The farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants for commercial purposes and which requires intervention in the rearing process to enhance production, whether or not undertaken in a natural or an artificially created body of water.

### Planning control—

\* Council consent.

**Note—**

Applications for development consent for aquaculture may need to be accompanied by detailed information about different aspects of the proposal. To avoid delays, applicants should contact each of the agencies to be consulted by the council before submitting a development application to the council.

### **3 BANK AND/OR BED WORK**

**Definition—**

Works which relate to the excavation, dredging or alteration to the alignment or shape of the bank or bed of the River Murray (including construction of weirs and floodgates, boat ramps and bank stabilisation works).

**Planning control—**

\* Council consent (except work by or for DWR or RWC (Vic)).

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

### **4 BOAT INDUSTRY FACILITY**

**Definition—**

Buildings, structures or facilities used for the construction, maintenance, repair, temporary storage or sale of boats and other vessels, but does not include a large or small marina.

**Planning control—**

\* Council consent.

**Consultation—**

Department of Planning, Industry and Environment.

### **5 CANAL DEVELOPMENT**

**Definition—**

The construction of an artificial navigable waterway.

**Planning control—**

- \* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**Note—**

A direction under section 101 of the Act requires applications for consent to private canal development to be referred to the Minister for Planning for determination.

**6 CARAVAN PARK/CAMPING GROUND**

**Definition—**

Use of land for caravans or other moveable dwellings requiring an approval under Part 1 of Chapter 7 of the [Local Government Act 1993](#).

**Planning control—**

- \* Council consent.

**Consultation—**

Department of Planning, Industry and Environment.

**Specific matters for consideration—**

- \* Permanent facilities, such as rigid caravan annexes, amenity blocks and long term sites, should not be on flood liable land.
- \* In riverfront locations, pedestrian access to the River Murray should be restricted to constructed pathways and a vegetated strip of river frontage should be retained as a buffer between the River and camping/caravan sites and amenities.
- \* Vehicular access to the River Murray should be at boat launching ramps only.

**7 CHEMICAL, FUEL OR FERTILISER STORAGE ON FLOOD LIABLE LAND**

**Definition—**

Flood liable land used for chemical, fuel or fertiliser storage.

**Planning control—**

Council consent.

## 8 DESNAGGING OPERATIONS (INCLUDING SNAG MAINTENANCE)

### Definition—

Any work to move or remove either trees or woody debris from the water of the River Murray, other than work which is part of an MDBC approved program.

### Planning control—

#### Note—

Refer to local planning instrument for any planning controls.

### Consultation—

Transport for NSW.

Department of Planning, Industry and Environment.

#### Note—

An MDBC approved program is a component of broader management plans of the MDBC to fulfil its responsibility for the conservation and protection of the aquatic and riverine environment of the River Murray. Such a program is developed and approved through an interstate committee convened by the MDBC and comprised of representatives from relevant agencies in each State, including consultation with fisheries agencies.

## 9 DESTRUCTION OF NATIVE VEGETATION

### Definition—

The clearing, logging, removal or damaging of any species of trees and shrubs that are indigenous to the River Murray floodplain and that are on land shown on the map as native vegetation.

### Planning control—

Council consent, unless it constitutes any of the following forms of vegetation destruction—

- (a) destruction of native vegetation on protected land as defined under the *Soil Conservation Act 1938*,
- (b) destruction of native vegetation in the Western Division (i.e. where Schedule 3 to the *Crown Land Management Act 2016* applies),
- (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
- (d) destruction of vegetation in accordance with forestry operations duly authorised by the Forestry Commission,

- (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

**Note—**

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed does not involve disturbance of the soil,
- (g) destruction of native vegetation for the purpose of maintenance of access tracks, fences, domestic and farm buildings, and corridors for existing utilities,
- (h) lopping or pruning of native vegetation for use as fodder in times of declared drought or after flood or fire,
- (i) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (j) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

**Consultation—**

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

**Specific matters for consideration—**

- \* whether the development would contribute to soil erosion or other land degradation processes, including rising watertables.
- \* the effect of the development on the landscape.
- \* the potential loss of wildlife habitat.
- \* whether the development would endanger the species of vegetation, either locally or across its range.

**Note—**

Although the destruction of vegetation on protected land (*Soil Conservation Act 1938*), Crown timber land (*Forestry Act 1916*) or in the Western Division (*Western Lands Act 1901*) is exempt from the requirement to obtain development consent, approval may still be required from the organisation administering the relevant legislation for the damage or destruction of ANY vegetation.

For protected land and land within the Western Division, approval may be needed from the Department of

Planning, Industry and Environment. The destruction of vegetation on Crown timber land may require an approval from the Forestry Commission.

For controls on destruction of native vegetation in wetlands, see item 30 of this Table.

## **10 FLOOD CONTROL WORKS**

### **Definition—**

Works which change the natural or existing condition or topography of land (such as the construction or alteration of levees, channels and mounds) and which are likely to affect the hydrology of the River Murray system.

### **Planning control—**

\* Council consent (except work by or for DWR or RWC (Vic)).

### **Consultation—**

Department of Planning, Industry and Environment.

## **11 HAZARDOUS OR OFFENSIVE, OR POTENTIALLY HAZARDOUS OR OFFENSIVE, INDUSTRIES**

### **Definition—**

Use of land for a hazardous or offensive (or a potentially hazardous or offensive) industry.

### **Planning control—**

\* Prohibited on flood liable land.

\* Council consent elsewhere.

### **Consultation—**

Department of Planning, Industry and Environment.

## **12 HAZARDOUS OR OFFENSIVE STORAGE ESTABLISHMENT**

### **Definition—**

Use of land for a hazardous or offensive storage establishment.

### **Planning control—**

\* Prohibited on flood liable land.

\* Council consent elsewhere.

### **Consultation—**

Department of Planning, Industry and Environment.

### **13 HOUSEBOAT OPERATIONS**

#### **Definition—**

Commercial operation of a vessel for use as a residence.

#### **Planning control—**

- \* Council consent.

#### **Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

#### **Specific matters for consideration—**

- \* Development for houseboat operations must have adequate shore based pump-out facilities available to it.
- \* Private and commercial houseboat related development should be located in waterways not comprising the main channel of the Murray River.

### **14 INDUSTRY**

#### **Definition—**

The manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes (other than development referred to elsewhere in this Table).

#### **Planning control—**

- \* Council consent.

### **15 INTENSIVE LIVESTOCK KEEPING**

#### **Definition—**

Use of land for holding cattle, sheep, goats, poultry or other livestock for the purposes of nurturing by a feeding method other than natural grazing, including—

- (a) feed lots,
- (b) piggeries, and
- (c) poultry farms,

but not an animal boarding or training establishment or land used for the keeping of



livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or intensive hand feeding of livestock as a result of drought, flood, bushfire or other natural disaster.

**Planning control—**

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.

**Consultation—**

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

**Note—**

Schedule 3 of the EPA Regulation 1980 requires the preparation of an environmental impact statement for some forms of intensive livestock keeping. Refer also to *State Environmental Planning Policy No 30—Cattle Feedlots* and to DoP Circular No 23.

## 16 LANDFILL

**Definition—**

Sites used for the collection and disposal of industrial, trade or human waste (other than development referred to elsewhere in this Table).

**Planning control—**

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.

**Consultation—**

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2.

## 17 MAINTENANCE DREDGING

**Definition—**

The winning or removal of extractive material from the bed of the River Murray by or for a public authority for the purpose of obtaining sufficient width and depth in the waterway to enable the waterway to continue to function—

- (a) as a channel for the escape or passage of water, or
- (b) as a safe navigation route for travel or transport by water,

but does not include bank or bed works.

**Planning control—**

**Note—**

Refer to local planning instrument for any planning controls.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**18 MANUFACTURED HOME ESTATES**

**Definition—**

Use of land for manufactured homes requiring an approval under Part 1 of Chapter 7 of the [Local Government Act 1993](#).

**Planning control—**

- \* Prohibited on flood liable land.
- \* Council consent elsewhere.

**Note—**

Refer to [State Environmental Planning Policy No 36—Manufactured Home Estates](#).

**Consultation—**

Department of Planning, Industry and Environment, if the development is likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2.

**19 MARINA (LARGE)**

**Definition—**

A pontoon, jetty, pier or the like, capable of providing berths for 10 or more boats used for pleasure or recreation, and extends to any support facilities such as—

- (a) any associated slipways or facilities for the repair, maintenance and fuelling of, or the provision of accessories and parts for, boats, and
- (b) any associated facilities for the storage or provision of food.

**Planning control—**

- \* Council consent.

\* Designated development.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**20 MARINA (SMALL)**

**Definition—**

A pontoon, jetty, pier or other structure or apparatus used or intended to be used to provide berths for boats, and extends to any support facilities on the adjoining area of land, but not development defined as a marina (large).

**Planning control—**

\* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**21 PUBLIC UTILITY UNDERTAKING**

**Definition—**

Any of the following undertakings carried on by or for a public authority that is likely to significantly affect the environment—

    rail, road or water transport,

    wharfs,

    telecommunications,

    supply of water, electricity or gas or provision of sewerage or drainage services.

**Planning Control—**

**Note—**

Refer to local planning instrument for any planning controls.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

## **22 RECREATION FACILITY ADJOINING RIVER MURRAY OR ON FLOOD LIABLE LAND**

### **Definition—**

A building, work or place, adjoining the River Murray or on flood liable land, used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but not a building, work or place referred to elsewhere in this Table.

### **Planning control—**

- \* Council consent.

### **Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

### **Specific matters for consideration—**

Recreational facilities should not obstruct, alienate or pollute the river.

## **23 RURAL INDUSTRY**

### **Definition—**

A business development involving—

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

### **Planning control—**

- \* Council consent.

## **24 SEWAGE TREATMENT WORKS**

### **Definition—**

Works or land used for the collection, treatment and disposal of sewage by or for a public authority.

**Planning control—**

**Note—**

Refer to local planning instrument for any planning controls.

**Consultation—**

Department of Planning, Industry and Environment.

**Specific matters for consideration—**

Disposal of treated sewage on land is desirable.

**Note—**

Sewage treatment works have a potential to significantly affect the environment. The need for an environmental impact statement under Part 5 of the Act should therefore be carefully considered.

## 25 SINGLE MOORING

**Definition—**

A berth or apparatus located on or in the River Murray (but not in a grouped mooring area identified in a River Management Plan) which may be used for the purpose of storing only one vessel.

**Planning control—**

\* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**Note—**

This development may require an occupation licence issued by the MSB and may also require a lease issued by the Department of Planning, Industry and Environment.

## 26 STORMWATER DRAINAGE SCHEME

**Definition—**

Works designed to collect, channel, store, treat or disperse stormwater runoff from areas of urban development or from development adjacent to the River Murray. Untreated stormwater is water which has not been subjected to measures designed to reduce litter, suspended solids, nutrients or other substances which contribute to a

decline in the quality of water in the River Murray system.

**Planning control—**

- \* Disposal of untreated stormwater into the River Murray system is prohibited.
- \* Council consent otherwise.

**Consultation—**

Department of Planning, Industry and Environment.

**Specific matters for consideration—**

- \* Wherever practical, the disposal of treated stormwater into the River Murray system should be avoided.
- \* Stormwater disposal should not contribute to a decline in the quality of any receiving waters.

**Note—**

The suitability of treatment measures will depend on the characteristics of the individual catchments but may include one or more of the following—

- artificial wetlands,
- detention basins,
- grassed drainage lines and table drains,
- trash racks,
- booms.

Early contact with EPA should help identify the stormwater measures appropriate to the circumstances.

## **27 TOURIST RELATED FACILITY**

**Definition—**

An establishment, place or vessel which provides for either accommodation or entertainment or food or beverage and which is permanently fixed in or on the River Murray or is on land adjacent to the River Murray.

**Planning control—**

- \* Prohibited if in or on the River Murray.
- \* Council consent elsewhere.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

**Specific matters for consideration—**

- \* Tourist facilities should not obstruct, alienate or pollute the River Murray.
- \* Development catering for recreational needs is to be designed with adequate environmental protection safeguards, including—
  - (a) rehabilitation of degraded land,
  - (b) provision of infrastructure such as water supply, sewerage, and stormwater drainage, and
  - (c) provision of appropriate landscaping.

## **28 WASTE DISPOSAL FACILITY**

**Definition—**

Any plant, equipment, apparatus, device, machine, mechanism or land used for the collection and disposal of industrial, trade or human waste, including a pump ashore facility, package sewage treatment works, waste transfer depot or junk yard. A dry toilet, septic tank, sewage treatment works or development referred to elsewhere in this Table is excluded.

**Planning control—**

- \* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the *Biodiversity Conservation Act 2016*, section 7.2, and
- (b) in the flood planning area.

## **29 WATER RECREATION FACILITY**

**Definition—**

Piers, wharves, boat sheds or other structures which have a direct structural

connection between the bank or the bed of the River Murray and which are used primarily for public recreational purposes.

**Planning control—**

\* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment.

**30 WETLAND FILLING, DREDGING, DRAINING OR CLEARING**

**Definition—**

Filling, dredging, draining or destruction of native vegetation on land shown on the map as “wetlands”.

**Note—**

The land forms a shallow water body when inundated cyclically, intermittently or permanently. The type of inundation determines the type and productivity of soils, plant and animal communities.

**Planning control—**

\* Council consent. Consent is not required to the following forms of destruction of native vegetation—

- (a) destruction of native vegetation on protected land as defined under the [Soil Conservation Act 1938](#),
- (b) destruction of native vegetation in the Western Division (i.e. where Schedule 3 to the [Crown Land Management Act 2016](#) applies),
- (c) destruction of native vegetation on Crown timber land which is Crown land greater than 2 hectares in size supporting merchantable timber,
- (d) destruction of vegetation in accordance with forestry operations duly authorised by the Forestry Commission,
- (e) destruction of native vegetation undertaken in accordance with a Vegetation Management Plan for the land,

**Note—**

A Vegetation Management Plan for land within the area of a council should be made available for public inspection at the office of the council.

- (f) destruction of native vegetation that is unavoidable in the destruction of noxious plants provided that the way in which the noxious plants are destroyed



does not involve disturbance of the soil,

- (g) destruction of native vegetation within 3 metres of a property boundary provided the adjoining property is owned by a different person and the vegetation destruction is required to build or maintain a fence,
- (h) destruction of native vegetation within 0.5 metres of a property boundary where the vegetation destruction is required to enable a survey to be carried out by a registered surveyor.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

**Note—**

For information about clearing other than on wetlands, see item 9 of this Table.

### **31 WETLAND SUBDIVISION**

**Definition—**

Subdivision of land shown on the map as “wetlands”.

**Planning control—**

- \* Council consent.

**Consultation—**

Transport for NSW.

Department of Planning, Industry and Environment, if the development is—

- (a) likely to significantly affect threatened species, within the meaning of the [Biodiversity Conservation Act 2016](#), section 7.2, and
- (b) in the flood planning area.

**Specific matters for consideration—**

- \* The intended use of the land and its likely effect on the wetland.
- \* The need to impose conditions relating to—

subdivision design; effluent disposal; the retention or planting of a vegetated buffer; and fencing to exclude stock or vermin.

**Note—**

Management of wetland is an important issue for consent. Subdivision which increases the number of owners of a wetland may make management more difficult. For additional information about clearing, see item 9 of this Table.

### **5.13 Building setbacks—special provisions**

- (1) **Application** This section deals with matters which are to be taken into consideration when—
  - (a) a consent authority determines a development application, or
  - (b) a public authority or person proposes to carry out development for which development consent is not required but which has the potential to adversely affect the riverine environment of the River Murray.
- (2) **Building setback** All buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River Murray. The only exceptions are buildings dependent on a location adjacent to the River Murray.
- (3) **Objectives of building setback** The objectives of siting buildings away from the River Murray are to—
  - maintain and improve water quality,
  - minimise hazard risk and the redistributive effect on floodwater associated with the erection of buildings on the floodplain,
  - protect the scenic landscape of the riverine corridor,
  - improve bank stability, and
  - conserve wildlife habitat.
- (4) **Matters to be considered** When determining the location of a building in relation to the River Murray, in addition to the planning principles the following specific matters should also be considered—
  - (a) **Effluent disposal**
    - (i) it is generally unsuitable to locate septic tanks—
      - on flood liable land,
      - where the watertable is within 2 metres of the surface,
      - in close proximity to a sensitive natural environment,

- if seasonably low evapotranspiration is common, or
  - on soils of low permeability,
- (ii) septic tanks should only be installed on suitable (ie permeable) soils with absorption areas located as far as possible from the River Murray or other drainage lines,
- (iii) in circumstances where septic tanks are unsuitable, package sewage treatment plants or humus closet (dry toilet) systems should be preferred,
- (iv) excess stormwater should, where possible, be disposed of on-site away from any septic absorption area.

**(b) Landscaping**

The visual impact of buildings in the riverine landscape can be lessened by the planting of a variety of appropriate vegetation species. This practice has other advantages in stabilising unstable or eroding banks and providing both habitat for wildlife and a trap for silt, nutrients and other substances which may otherwise enter the river and lead to a deterioration of water quality.

## **Chapter 6 Water catchments**

### **Part 6.1 Preliminary**

#### **6.1 Land to which Chapter applies**

This Chapter applies to land in the following catchments—

- (a) the Sydney Drinking Water Catchment,
- (b) the Sydney Harbour Catchment,
- (c) the Georges River Catchment,
- (d) the Hawkesbury-Nepean Catchment.

#### **6.2 Definitions**

- (1) The Dictionary in Schedule 6 defines words used in this Chapter.
- (2) A word used in this Chapter has the same meaning as in the Standard Instrument unless otherwise defined in this Chapter.

#### **6.3 Relationship with other environmental planning instruments**

- (1) Unless the contrary intention expressly appears, this Chapter does not permit the carrying out of development—

- (a) prohibited by another environmental planning instrument, or
- (b) if another environmental planning instrument provides that development consent is required for the development—without development consent.

**Note—**

An express contrary intention appears in sections 6.40 and 6.41.

- (2) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2, other than section 2.80(3), prevails to the extent of an inconsistency with this Chapter.
- (3) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, clauses 4A.11 and 4A.12 do not apply to development to which this Policy, section 6.43 applies.
- (4) The Standard Instrument, clause 4.6, as adopted by a local environmental plan, does not apply to a development standard imposed by this Policy, Part 6.5.
- (5) This Chapter otherwise—
  - (a) prevails to the extent of an inconsistency with another environmental planning instrument, whether made before or after the commencement of this Chapter, and
  - (b) supplements, and does not derogate from, another environmental planning instrument applying to land to which this Chapter applies.
- (6) In this section, a reference to another environmental planning instrument includes a reference to another Chapter of this Policy.

#### **6.4 Maps**

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map.
- (3) If 2 or more named maps are combined into a single map, a reference in this Chapter to 1 of the named maps is a reference to the relevant part or aspect of the single map.
- (4) The maps adopted by this Chapter are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

### **Part 6.2 Development in regulated catchments**

## Division 1 Preliminary

### 6.5 Definitions

In this Part—

***flood liable land*** means land—

- (a) susceptible to flooding by the probable maximum flood event, identified in accordance with the principles set out in the Floodplain Development Manual, within the meaning of the Standard Instrument, clause 5.21. or
- (b) identified in an environmental planning instrument as flood liable land.

***riparian vegetation*** means hydrophilic vegetation, including submerged, emerging and fringing vegetation, that is within a waterway or the floodplain of a waterway.

## Division 2 Controls on development generally

### 6.6 Water quality and quantity

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—
  - (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
  - (b) whether the development will have an adverse impact on water flow in a natural waterbody,
  - (c) whether the development will increase the amount of stormwater run-off from a site,
  - (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
  - (e) the impact of the development on the level and quality of the water table,
  - (f) the cumulative environmental impact of the development on the regulated catchment,
  - (g) whether the development makes adequate provision to protect the quality and quantity of ground water.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures—
  - (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and

(b) the impact on water flow in a natural waterbody will be minimised.

(3) Subsections (1)(a) and (2)(a) do not apply to development on land in the Sydney Drinking Water Catchment.

**Note—**

Part 6.5 contains provisions requiring development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.

## **6.7 Aquatic ecology**

(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—

(a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,

(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—

(i) a controlled activity approval under the *Water Management Act 2000*, or

(ii) a permit under the *Fisheries Management Act 1994*,

(c) whether the development will minimise or avoid—

(i) the erosion of land abutting a natural waterbody, or

(ii) the sedimentation of a natural waterbody,

(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,

(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,

(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

**Example—**

Additional measures may include the incorporation of a vegetated buffer between the waterbody and the site.

(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—

(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,

- (b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
- (c) if a controlled activity approval under the *Water Management Act 2000* or a permit under the *Fisheries Management Act 1994* is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,
- (d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
- (e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

(3) In this section—

***coastal wetlands and littoral rainforests area*** has the same meaning as in the *Coastal Management Act 2016*, section 6.

## 6.8 Flooding

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.
- (2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—
  - (a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or
  - (b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.

## 6.9 Recreation and public access

- (1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—
  - (a) the likely impact of the development on recreational land uses in the regulated catchment, and
  - (b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.
- (2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—

- (a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,
  - (b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,
  - (c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.
- (3) This section does not apply to development on land in a regulated catchment if the land is in a special area under the [Water NSW Act 2014](#).

#### **6.10 Total catchment management**

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.

### **Division 3 Controls on development in specific areas**

#### **6.11 Land within 100m of natural waterbody**

In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—

- (a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and
- (b) conflicts between land uses are minimised.

#### **6.12 Riverine Scenic Areas**

- (1) Development in a Riverine Scenic Area may be carried out only with development consent.
- (2) In deciding whether to grant development consent to development in a Riverine Scenic Area, the consent authority must consider the following—
  - (a) whether the development is likely to damage river banks,
  - (b) whether the development will be adequately set back from natural waterbodies in the Hawkesbury-Nepean Catchment,
  - (c) the visibility of the development from the surrounding natural waterbodies and



visual catchment,

- (d) whether the development will be consistent with the scenic character of the Riverine Scenic Area, as described in the document entitled *Hawkesbury-Nepean River Scenic Quality Study*, published by the Department of Urban Affairs and Planning in 1996,
  - (e) whether the development will increase public recreational and visual access to natural waterbodies,
  - (f) landscaping, including the following—
    - (i) the form and siting of buildings,
    - (ii) the colours and materials proposed to be used in the buildings,
    - (iii) whether the development includes or retains native vegetation,
  - (g) the appropriateness of imposing a condition requiring the protection of the scenic character of the Riverine Scenic Area.
- (3) Development consent must not be granted to development in a Riverine Scenic Area unless the consent authority is satisfied the impact of the development on the scenic quality of the Riverine Scenic Area will be minimised.

### **6.13 Hawkesbury-Nepean conservation area sub-catchments**

- (1) Development in a Hawkesbury-Nepean conservation area sub-catchment may be carried out only with development consent.
- (2) In deciding whether to grant development consent to development in a Hawkesbury-Nepean conservation area sub-catchment, the consent authority must consider the following—
  - (a) whether the development will minimise human interference with the condition of the sub-catchment,
  - (b) whether the development will maintain and enhance the structure and floristics of native vegetation in the sub-catchment,
  - (c) whether the development will maintain or enhance the scenic quality of the locality,
  - (d) whether development has previously been carried out on the development site.

### **6.14 Temporary use of land in Sydney Harbour Catchment**

- (1) The objective of this section is to provide for the temporary use of land in the Sydney Harbour Catchment if the use does not compromise future development of the land or

have detrimental economic, social, amenity or environmental effects on the land.

- (2) This section applies to land in the Sydney Harbour Catchment.
- (3) Development consent may be granted to development on land in the Sydney Harbour Catchment for a temporary use for a maximum period of 52 days, whether or not consecutive, in a period of 12 months, even if the development would otherwise be prohibited by this Chapter.
- (4) Development consent must not be granted unless the consent authority is satisfied of the following—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Chapter and any other applicable environmental planning instrument,
  - (b) the temporary use will not have an adverse impact on adjoining land or the amenity of the neighbourhood,
  - (c) the temporary use and location of structures related to the use will not have an adverse impact on environmental attributes or features of the land or increase the risk of natural hazards that may affect the land,
  - (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.
- (5) Development consent may be granted to development for the temporary use of a dwelling as a sales office for a new release area or a new housing estate for a period exceeding the maximum period specified in subsection (3).
- (6) Subsection (4)(d) does not apply to a temporary use referred to in subsection (5).

## **Division 4 Controls on development for specific purposes**

### **6.15 Aquaculture**

In deciding whether to grant development consent to development for the purposes of aquaculture on land in a regulated catchment, the consent authority must consider the following—

- (a) the likely direct, indirect and cumulative environmental impacts of related activities, including—
  - (i) the coating of fishing accessories with protective finishes, and
  - (ii) the transport and cleaning of cages, racks and other accessories,
- (b) whether the development includes adequate measures for the disposal of waste,

- (c) potential adverse environmental impacts from damage to facilities or equipment associated with the development that is caused by flooding, stormwater or erosion.

#### **6.16 Artificial waterbodies**

- (1) In deciding whether to grant development consent to development for the purposes of artificial waterbodies on land in a regulated catchment, the consent authority must consider the following—
  - (a) the likely impact of the development on other downstream land uses in the regulated catchment,
  - (b) whether the development will enhance the recreational and environmental amenity of the regulated catchment,
  - (c) whether the development will contribute to a propagation zone for noxious aquatic weeds in the regulated catchment,
  - (d) whether the development includes measures to minimise the risk of an increase in algal blooms in the regulated catchment.
- (2) Development consent must not be granted to development for the purposes of artificial waterbodies on land in a regulated catchment if—
  - (a) a rehabilitation plan is required to be prepared for the development under [State Environmental Planning Policy \(Resources and Energy\) 2021](#), section 2.23, and
  - (b) the consent authority is not satisfied the development is consistent with the rehabilitation plan.

#### **6.17 Heavy and hazardous industries**

- (1) This section applies to—
  - (a) development for the purposes of potentially hazardous industry or potentially offensive industry, and
  - (b) development for the purposes of heavy industrial storage establishments or heavy industries.
- (2) In deciding whether to grant development consent to development to which this section applies, the consent authority must consider the need for bush fire hazard reduction work on the site.
- (3) Development consent must not be granted to development to which this section applies unless the consent authority is satisfied—
  - (a) the development includes adequate measures to contain water that is at risk of contamination as a result of the development, and

(b) approvals have been obtained, or are obtainable, to undertake bush fire hazard reduction work required on the site.

(4) Development for the purposes of heavy industrial storage establishments or heavy industries is prohibited on land in a regulated catchment if the development is carried out—

(a) on flood liable land, or

(b) within 40m of a natural waterbody or watercourse, or

(c) on a floodway.

(5) In this section—

**floodway** means an area of a floodplain where a significant discharge of water occurs during floods, which, even if partially blocked, would cause a significant redistribution of flood flow or a significant increase in flood levels.

**potentially hazardous industry** has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3.

**potentially offensive industry** has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3.

## 6.18 Marinas

In deciding whether to grant development consent to development for the purposes of marinas on land in a regulated catchment, the consent authority must consider the following—

(a) whether the development includes adequate measures in relation to the collection, storage, treatment and disposal of sewage and other waste,

(b) whether the development complies with the document entitled *Environmental Guidelines: Best Management Practice for Marinas and Slipways*, published in 1998 by the Environment Protection Authority,

(c) whether adequate depth of water exists for the development and related foreshore facilities,

(d) whether the development is likely to affect the stability of land adjoining a natural waterbody,

(e) whether the development will have an adverse impact on the foreshore or the bed of a natural waterbody.

### **6.19 Moorings**

- (1) Development for the purposes of moorings on land in a regulated catchment—
  - (a) may be carried out with development consent, if the development will be carried out in accordance with a permit under the *Fisheries Management Act 1994*, and
  - (b) is otherwise prohibited.

**Note—**

Development requiring both development consent and a specified permit under the *Fisheries Management Act 1994* is integrated development—see the Act, section 4.46.

- (2) In deciding whether to grant development consent to development for the purposes of moorings on land in a regulated catchment, the consent authority must consider the following—
  - (a) the type and size of vessels that will be moored,
  - (b) whether adequate depth of water exists for the development,
  - (c) whether dredging will be needed to carry out the development,
  - (d) whether the development will provide public facilities or promote the shared use of private facilities.

### **6.20 On-site domestic sewerage systems**

- (1) This section applies to development for the purposes of on-site domestic sewerage systems on land in a regulated catchment.
- (2) In deciding whether to grant development consent, the consent authority must consider the following—
  - (a) whether the development will be capable of connecting to a sewerage reticulation system,
  - (b) the suitability of the site for on-site disposal of effluent,
  - (c) the capacity of the development to operate without significant adverse long-term impacts on adjoining land.
- (3) Development consent must not be granted unless the consent authority is satisfied that the development includes adequate measures—
  - (a) to prevent the spread of disease, and
  - (b) to reuse treated resources, and
  - (c) to facilitate the recycling and reuse of treated effluent, and

- (d) to minimise adverse impacts on the amenity of the development site and other nearby land, and
  - (e) to maintain storage and treatment capacity in wet weather, and
  - (f) to monitor the relevant sewerage system on an ongoing basis.
- (4) Development consent must not be granted to single household development that is not connected to a sewage reticulation system unless the consent authority is also satisfied that the development complies with the relevant guidelines.

- (5) In this section—

**on-site domestic sewerage system** means a building, work or place at which effluent is stored, treated or disposed of on-site for domestic purposes.

**relevant guidelines** means the document entitled *Environment and Health Protection Guidelines—On-site Sewage Management for Single Households*, published by the Department of Local Government, the Department of Land and Water Conservation, the Department of Health and the Environment Protection Authority in 1998.

**single household development** meant development to which this section applies that is associated with residential accommodation consisting of a single dwelling.

## 6.21 Stormwater management

- (1) This section applies to development for the purposes of works, including water recycling facilities, water reticulation systems and water storage facilities, that are designed to collect, channel, store, treat or disperse stormwater runoff.
- (2) Development to which this section applies may be carried out on land in a regulated catchment—
- (a) by or on behalf of a public authority—without development consent, or
  - (b) otherwise—with development consent.
- (3) Despite subsection (2), development to which this section applies is prohibited on land in a regulated catchment if the works will cause untreated stormwater to be disposed of into a natural waterbody.

- (4) In this section—

**untreated stormwater** means stormwater that has not been subjected to measures designed to reduce litter, suspended soils, nutrients or other substances that contribute to a decline in water quality.

## **6.22 Waste or resource management facilities**

- (1) Development for the purposes of waste or resource management facilities is prohibited on flood liable land in the Georges River Catchment.
- (2) Development consent must not be granted to development for the purposes of waste or resource management facilities on land in a regulated catchment unless the consent authority is satisfied of the following—
  - (a) an adequate site management plan has been prepared in relation to the development,
  - (b) the development includes adequate leachate surface controls,
  - (c) the final landform of the development on the site will be stable in the long term.

## **6.23 Demolition on certain land**

- (1) This section applies to land—
  - (a) in a regulated catchment, and
  - (b) to which a local environmental plan that adopts the Standard Instrument does not apply.
- (2) Development that involves the demolition of a building or work may be carried out only with development consent.

# **Part 6.3 Foreshores and Waterways Area**

## **Division 1 Preliminary**

### **6.24 Application of Part**

- (1) This Part applies to land that is in, or abuts, the Foreshores and Waterways Area.
- (2) If development is permitted with development consent under this Part, the permission is subject to a provision of another Part that prohibits the development.
- (3) If development is permitted without development consent under this Part, the permission is subject to a provision of another Part that—
  - (a) permits the development with development consent, or
  - (b) prohibits the development.

### **6.25 Consent authority**

- (1) The Minister administering the [Ports and Maritime Administration Act 1995](#) is the consent authority for the following development—

- (a) development comprising the subdivision of land owned by TfNSW in or abutting the Foreshores and Waterways Area,
- (b) development carried out in the Foreshores and Waterways Area wholly below the mean high water mark,
- (c) development carried out in the Foreshores and Waterways Area for one or more of the following purposes, including development carried out wholly or partly inside a local government area—

Above-water boat lifts; Advertisements; Advertising structures; Aids to navigation; Aviation facilities; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Dredging; Floating boat platforms; Flora and fauna enclosures; Houseboats; Maintenance dredging; Mooring pens; Private landing facilities; Private landing steps; Private marinas; Private swimming enclosures; Public boardwalks; Public water transport facilities; Single moorings; Skids; Slipways

**Note—**

See the [Local Government Act 1993](#), section 205 in relation to the foreshore land taken to be included in a local government area.

- (2) Despite subsection (1), the Minister administering the [Environmental Planning and Assessment Act 1979](#) is the consent authority for the following development carried out in the Foreshores and Waterways Area—
  - (a) development carried out partly above and partly below the mean high water mark,
  - (b) development carried out below the mean high water mark for the purposes of one or more of the following—

Boat building and repair facilities; Boat launching ramps; Boat sheds; Marinas; Public water recreational facilities; Reclamation works; Swimming pools; Water-based restaurants and entertainment facilities; Waterfront access stairs; Wharf or boating facilities that are sea walls
  - (c) development carried out wholly or partly inside the zoned waterway, including development carried out below the mean high water mark, for the purposes of one or more of the following—

Car parks; Commercial premises; Recreational or club facilities; Residential accommodation; Restaurants or cafes; Retail premises; Tourist facilities
- (3) Subsections (1) and (2) do not apply if another environmental planning instrument specifies a different public authority, other than the council, as the consent authority for the development.



**Note—**

If another environmental planning instrument declares development as development for which a public authority, other than a council, is the consent authority, that public authority is the consent authority for the development. See the Act, section 4.5(c).

## **Division 2 Zoning of Foreshores and Waterways Area**

### **6.26 Zoning of Foreshores and Waterways Area**

- (1) For this Part, land is in one of the following zones if it is shown within the zone on the [Foreshores and Waterways Area Map](#)—

Zone 1—Maritime Waters

Zone 2—Environment Protection

Zone 3—Naval Waters

Zone 4—Aviation

Zone 5—Water Recreation

Zone 6—Scenic Waters—Active Use

Zone 7—Scenic Waters—Casual Use

Zone 8—Scenic Waters—Passive Use

Zone 9—National Parks and Nature Reserves

- (2) A zone boundary that follows the water's edge, as shown on the [Foreshores and Waterways Area Map](#), is taken to follow the mean high water mark.
- (3) This section does not affect the zoning, under another environmental planning instrument, of land in the Foreshores and Waterways Area if the land is not included in a zone under this section.

### **6.27 Zone objectives and Land Use Table**

- (1) The Land Use Table at the end of this section specifies the following for each zone—
- (a) the objectives for development,
  - (b) development that may be carried out without development consent,
  - (c) development that may be carried out only with development consent,
  - (d) development that is prohibited.
- (2) Development not specified in the Table in relation to a zone may be carried out with development consent in the zone if the consent authority is satisfied that the

development—

- (a) is not inconsistent with the objectives for development in the zone, and
- (b) is not inconsistent with the provisions of another environmental planning instrument, and
- (c) will not otherwise have adverse impacts.

(3) The consent authority must consider the objectives for development in a zone when determining a development application in relation to land in the zone.

## **Land Use Table**

### **Zone 1 Maritime Waters**

#### **1 Objectives of zone**

- To give preference to and protect waters required for the effective and efficient movement of commercial shipping, public water transport and maritime industry operations.
- To allow development that is compatible with, and will not adversely affect the effective and efficient movement of, commercial shipping, public water transport and maritime industry operations.
- To promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft.

#### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; General restoration works; Maintenance dredging; Naval activities; Single moorings

#### **3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Flora and fauna enclosures; Marinas; Private landing steps; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Skids; Telecommunications facilities

#### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds;

Floating boat platforms; Houseboats; Intertidal dredging; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 2 Environment Protection**

### **1 Objectives of zone**

- To protect the natural and cultural values of waters in the zone.
- To prevent damage to, or the possibility of long term adverse impact on, the natural and cultural values of waters in the zone and adjoining foreshores.
- To enhance and rehabilitate the natural and cultural values of waters in the zone and adjoining foreshores.
- To provide for the long term management of the natural and cultural values of waters in the zone and adjoining foreshores.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; General restoration works; Naval activities; Single moorings

### **3 Permitted with consent**

Boat launching ramps; Community facilities; Dredging; Flora and fauna enclosures; Maintenance dredging; Private landing steps; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Telecommunications facilities

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat building and repair facilities; Boat lifts; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Skids; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 3 Naval Waters**

### **1 Objectives of zone**

- To ensure effective implementation of the *Control of Naval Waters Act 1918* of the Commonwealth.
- To restrict development that is incompatible with naval interests.
- To allow development that does not jeopardise naval interests.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

### **3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Private landing steps; Private swimming enclosures; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Telecommunications facilities

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Reclamation works; Residential accommodation; Skids; Slipways; Swimming pools; Tourist facilities; Uses and activities prohibited under the *Control of Naval Waters Act 1918* of the Commonwealth, Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 4 Aviation**

### **1 Objectives of zone**

- To give preference to and protect waters required for marine aviation activities.
- To ensure marine aviation activities safely coexist with other activities and facilities.

- To allow development that is compatible with, and will not adversely affect, marine aviation activities.

## **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

## **3 Permitted with consent**

Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Dredging; Marinas; Private landing steps; Private swimming enclosures; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Telecommunications facilities

## **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Boat sheds; Floating boat platforms; Houseboats; Intertidal dredging; Mooring pens; Private landing facilities; Reclamation works; Residential accommodation; Skids; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

# **Zone 5 Water Recreation**

## **1 Objectives of zone**

- To give preference to and increase public water-dependent development that will promote the enjoyment of, and free access to, the Foreshores and Waterways Area.
- To allow development that will enhance public use of waters in the zone and not compromise public use of waters in the zone in the present or future.
- To minimise the number, scale and extent of artificial structures, considering the function of the structures.
- To allow commercial water-dependent development that—
  - (a) meets a justified demand, and

- (b) provides benefits to the general and boating public, and
- (c) results in a visual outcome that is compatible with the planned character of the locality.

- To minimise congestion and conflict arising from the use of waters in the zone and the adjoining foreshores.
- To protect and preserve beach environments and ensure they are free from artificial structures.
- To ensure the scale and size of development are appropriate to the locality.
- To ensure the scale and size of development protect and improve the natural assets and the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone or from areas of public access.

## **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Naval activities; Single moorings

## **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Charter and tourism boating facilities; Community facilities; Dredging; Marinas; Private landing steps; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Skids; Telecommunications facilities

## **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Slipways; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 6 Scenic Waters—Active Use**

## **1 Objectives of zone**

- To allow a range of public and private water-dependent development close to shore only if the development—
  - (a) minimises alienation of waters in the zone from public use, and
  - (b) is not constrained by shallow water depth, navigational conflicts or severe wave action.
- To minimise the number and extent of structures over waters in the zone through mechanisms, including the sharing of structures between adjoining waterfront property owners.
- To ensure remnant natural features, aquatic ecology and public access along the intertidal zone are not damaged or impaired by development.
- To minimise the adverse impact on views to and from waters in the zone and on the scenic values of the locality as a result of the size of vessels capable of being accommodated as a result of development in the zone.

## **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

## **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Boat sheds; Charter and tourism boating facilities; Community facilities; Dredging; Floating boat platforms; Marinas; Mooring pens; Naval activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities

## **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Commercial port facilities; Houseboats; Intertidal dredging; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 7 Scenic Waters—Casual Use**

### **1 Objectives of zone**

- To allow certain water-dependent development close to shore to meet casual boating needs and other water access needs.
- To allow development only if the development—
  - (a) achieves a largely open and unobstructed waterway, and
  - (b) does not dominate the landscape setting.
- To restrict development for permanent boat storage in locations that are unsuitable due to—
  - (a) the adverse visual impact of the development, or
  - (b) physical constraints, including shallow water depth, severe wave action and unsafe navigation.
- To ensure the scale and size of development are appropriate to the locality
- To ensure the scale and size of development protect and improve the natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone and areas of public access.
- To maintain and enhance views to and from waters in the zone.
- To minimise the number and extent of structures over waters in the zone through mechanisms including the sharing of structures between adjoining waterfront property owners.
- To ensure remnant natural features, aquatic ecology and public access along the intertidal zone are not damaged or impaired by development.

### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

### **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Community facilities; Dredging; Floating boat platforms; Mooring pens; Naval



activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities

#### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Houseboats; Intertidal dredging; Marinas; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

### **Zone 8 Scenic Waters—Passive Use**

#### **1 Objectives of zone**

- To give preference to unimpeded public access along the intertidal zone, the visual continuity and significance of the landform and the ecological value of waters and foreshores.
- To restrict development for permanent boat storage and private landing facilities in unsuitable locations.
- To allow water-dependent development only if the development—
  - (a) meets a demonstrated demand, and
  - (b) is compatible with the planned character of the locality.
- To ensure the scale and size of development are appropriate to the locality.
- To ensure the scale and size of development protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in the zone or areas of public access.

#### **2 Permitted without consent**

Aids to navigation; Demolition, other than demolition of a heritage item; Flora and fauna enclosures; General restoration works; Maintenance dredging; Single moorings

### **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Boat lifts; Community facilities; Dredging; Naval activities; Private landing steps; Public boardwalks; Public water recreational facilities; Public water transport facilities; Recreational or club facilities; Skids; Slipways; Telecommunications facilities

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Floating boat platforms; Houseboats; Intertidal dredging; Marinas; Mooring pens; Private landing facilities; Private swimming enclosures; Reclamation works; Residential accommodation; Swimming pools; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Zone 9 National Parks and Nature Reserves**

### **1 Objectives of zone**

- To identify and protect the environmental significance of islands in Sydney Harbour acquired or reserved under the [National Parks and Wildlife Act 1974](#).
- To enable uses of the islands that are authorised under the [National Parks and Wildlife Act 1974](#).
- To facilitate public access to Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island.
- To facilitate development on Clark Island, Fort Denison, Goat Island, Rodd Island and Shark Island in a way that is compatible with the plan of management prepared under the [National Parks and Wildlife Act 1974](#) in relation to Sydney Harbour National Park.

### **2 Permitted without consent**

Aids to navigation; Uses authorised under the [National Parks and Wildlife Act 1974](#)

### **3 Permitted with consent**

Nil

### **4 Prohibited**

Above-water boat lifts; Advertisements; Advertising structures; Aviation facilities; Boat building and repair facilities; Boat launching ramps; Boat lifts; Boat sheds; Charter and tourism boating facilities; Commercial port facilities; Community facilities; Demolition; Dredging; Floating boat platforms; Flora and fauna enclosures; General restoration works; Houseboats; Intertidal dredging; Maintenance dredging; Marinas; Mooring pens; Naval activities; Private landing facilities; Private landing steps; Private swimming enclosures; Public boardwalks; Public water recreational facilities; Public water transport facilities; Reclamation works; Recreational or club facilities; Residential accommodation; Single moorings; Skids; Slipways; Swimming pools; Telecommunications facilities; Tourist facilities; Water-based restaurants and entertainment facilities; Waterfront access stairs

## **Division 3 Development in Foreshores and Waterways Area**

### **6.28 General**

- (1) In deciding whether to grant development consent to development in the Foreshores and Waterways Area, the consent authority must consider the following—
  - (a) whether the development is consistent with the following principles—
    - (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good,
    - (ii) the public good has precedence over the private good,
    - (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,
  - (b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,
  - (c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,
  - (d) whether the development promotes water-dependent land uses over other land uses,
  - (e) whether the development will minimise risk to the development from rising sea

levels or changing flood patterns as a result of climate change,

- (f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,
  - (g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,
  - (h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.
- (2) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—
- (a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,
  - (b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,
  - (c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,
  - (d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,
  - (e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from—
    - (i) the Foreshores and Waterways Area, and
    - (ii) public places, landmarks and heritage items.

(3) In this section—

**aquatic vegetation** includes seagrass, saltmarsh and algal and mangrove communities.

**Note—**

Development that does not require development consent may constitute an activity under the Act, Division 5.1. The [Environmental Planning and Assessment Regulation 2021](#), Part 8, Division 1, sets out factors to be taken into account by determining authorities in exercising functions under the Act, section 5.5.

## 6.29 Areas of outstanding biodiversity value

(1) This section applies to land in the Foreshores and Waterways Area that is also in a

declared area of outstanding biodiversity value within the meaning of the *Biodiversity Conservation Act 2016*.

**Note—**

This section applies to the critical habitat for the Little Penguin population at Manly. See Government Gazette No 263 of 2002, p 10983 and the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, clause 8.

- (2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied the development will not have a significant adverse impact on the land.

### **6.30 National parks**

- (1) Development consent must not be granted to development in the Foreshores and Waterways Area unless the consent authority is satisfied that the development—
  - (a) is not likely to affect land that is reserved under the *National Parks and Wildlife Act 1974*, and
  - (b) is consistent with the document entitled *Developments adjacent to National Parks and Wildlife Service lands: Guidelines for consent and planning authorities*, published by the Department in 2020.
- (2) Despite any other provision of this Chapter, development on land in the Foreshores and Waterways Area is permitted without development consent if—
  - (a) the development site abuts land reserved under the *National Parks and Wildlife Act 1974* (**reserved land**), and
  - (b) the development spans the mean high water mark and is part of other development being carried out on the reserved land, and
  - (c) the development is for a purpose for which development is authorised to be carried out under the *National Parks and Wildlife Act 1974*.

### **6.31 Dredging**

- (1) Despite any other provision of this Part, development for the purposes of dredging, intertidal dredging or maintenance dredging in the Foreshores and Waterways Area may be carried out without development consent if the development is carried out by or on behalf of—
  - (a) TfNSW, or
  - (b) the Port Authority of NSW.
- (2) Development consent must not be granted to development for the purposes of dredging or maintenance dredging in the Foreshores and Waterways Area unless the consent authority has considered—

- (a) the adequacy of an acid sulfate soils management plan prepared for the development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
- (b) the likelihood of the development resulting in the discharge of acid water.

(3) In this section—

***Acid Sulfate Soils Assessment Guidelines*** means the *Acid Sulfate Soils Assessment Guidelines* published in the Acid Sulfate Soils Manual.

### **6.32 Rocky foreshores and significant seagrasses**

- (1) This section applies to land identified as a rocky foreshore or significant seagrass area on the [Rocky Foreshores and Significant Seagrasses Map](#).
- (2) Development on land to which this section applies may be carried out only with development consent.
- (3) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied the development—
  - (a) will preserve and enhance the health and integrity of seagrasses, areas containing seagrasses and ecological communities in rocky foreshore areas, and
  - (b) will maintain or increase the connectivity of seagrass vegetation and natural landforms, and
  - (c) will prevent, or will not contribute to, the fragmentation of aquatic ecology, and
  - (d) will not cause physical damage to aquatic ecology.
- (4) Despite subsection (2), development consent is not required for development that is—
  - (a) for the sole purpose of maintaining an existing navigational channel, or
  - (b) for works that—
    - (i) will restore or enhance the natural values of rocky foreshore or seagrass areas, including the restoration or enhancement of plant communities, water levels, water flow or soil composition, and
    - (ii) are to be carried out to rectify damage arising from a contravention of this Chapter, and
    - (iii) will have no significant environmental impact beyond the site on which they are carried out, or
  - (c) to be carried out by or on behalf of—
    - (i) TfNSW, or

- (ii) the Port Authority of NSW.

### **6.33 Boat storage facilities**

In deciding whether to grant development consent to development for the purposes of boat storage facilities in the Foreshores and Waterways Area, the consent authority must consider the following—

- (a) whether the development will increase the number of public boat storage facilities and encourage the use of the facilities,
- (b) whether the development will avoid the proliferation of boat sheds and other related buildings and structures below the mean high water mark,
- (c) whether the development will provide for the shared use of private boat storage facilities,
- (d) whether the development will avoid the proliferation of private boat storage facilities in and over the waterways by providing facilities that satisfy a demonstrated demand,
- (e) whether the development will minimise the visual intrusion caused by the boat storage facility,
- (f) for development involving permanent boat storage—whether the development will—
  - (i) be adversely affected by the wave environment in relation to safety and utility, and
  - (ii) avoid adverse impacts on safe navigation and single moorings.

### **6.34 Floating boat platforms**

(1) In deciding whether to grant development consent to development for the purposes of floating boat platforms in the Foreshores and Waterways Area, the consent authority must consider the following in addition to the matters referred to in section 6.33—

- (a) whether the development will reduce or adversely affect public access to and along the foreshore or to and from the zoned waterway,
- (b) whether the development will be compatible with the locality,
- (c) whether the development will be carried out at a location with suitable water depth, without the need for dredging,
- (d) whether the platforms will, when being constructed, installed or used, have an adverse impact on seagrass, including impacts from—
  - (i) propeller wash or scour, and
  - (ii) overshadowing from the platform or vessels using the platform.

**Note—**

The *Fisheries Management Act 1994*, including sections 204A, 204B, 205, 220ZC and 220ZD, creates offences in relation to harming specified marine vegetation and damaging specified habitat.

- (2) Development consent must not be granted to development for the purposes of floating boat platforms in the Foreshores and Waterways Area unless the consent authority is satisfied the platforms will at all times have a minimum seabed clearance of 600mm, without the need for dredging.
- (3) This section does not apply to development for the purposes of floating boat platforms in the Foreshores and Waterways Area carried out as complying development under Division 4.

### **6.35 Mooring pens**

- (1) Development consent must not be granted to development for the purposes of mooring pens in the Foreshores and Waterways Area unless the consent authority is satisfied of the following—
  - (a) the development will not have an adverse impact on safe navigation,
  - (b) the development will not reduce or adversely affect public access to and along the foreshore or to and from the zoned waterway,
  - (c) the development will be compatible with the character of the locality,
  - (d) the development will minimise the visual intrusion caused by the mooring pens,
  - (e) if a mooring pen is for the permanent berthing of a vessel—the development will be carried out in a location suitable for the berthing, having regard to—
    - (i) water depth, without the need for dredging, and
    - (ii) wave action,
  - (f) the mooring pens will not, when being constructed, installed or used, have an adverse impact on seagrass.

**Note—**

The *Fisheries Management Act 1994*, including sections 204A, 204B, 205, 220ZC and 220ZD, creates offences in relation to harming specified marine vegetation and damaging specified habitat.

- (2) This section does not apply to development for the purposes of mooring pens in the Foreshores and Waterways Area carried out as complying development under Division 4.

### **6.36 Private marinas**

Despite any other provision of this Part, development for the purposes of private



marinas—

- (a) may be carried out with development consent on land in Zone 6, and
- (b) is otherwise prohibited on land in the zoned waterway.

### **6.37 Marinas in Zone 1**

Development consent must not be granted to development for the purposes of marinas on land in Zone 1 unless the consent authority is satisfied access between the marinas and the foreshore will not be provided on or across land in Zone 2, 3, 7 or 8.

### **6.38 Marinas and boat building and repair facilities in Zone 2**

- (1) The objectives of this section are as follows—
  - (a) to maintain the working harbour character and functions of certain existing marinas and boat building and repair facilities by retaining their sites for maritime purposes,
  - (b) to ensure development carried out on the sites, including alterations of or extensions to the facilities, does not substantially increase the scale of the facilities or the intensity of their use.
- (2) Despite any other provision of this Part, development for the purposes of marinas or boat building and repair facilities may be carried out with development consent on land in Zone 2 if the land is identified as a special purposes area on the [Special Purposes \(Marinas and Boat Building and Repair Facilities\) Map](#).
- (3) In this section, a reference to a marina does not include a reference to a private marina.

### **6.39 Development within 20m of boundary with Zone 2**

- (1) Despite any other provision of this Part, a consent authority may grant consent to development on land that is within 20m of a boundary between Zone 2 and another zone for a purpose for which development may be carried out in either Zone 2 or the other zone.
- (2) Subsection (1) does not apply to land within 20m of a boundary between Zone 2 and Zone 9.

### **6.40 Subdivision of land owned by TfNSW**

- (1) Land owned by TfNSW that is in or abuts the Foreshores and Waterways Area may be subdivided with development consent.
- (2) Subdivision is permitted with development consent under this section despite—
  - (a) any other provision of this Policy, and

(b) the provisions of a local environmental plan applying to the land, including development standards relating to subdivision and resulting lots that apply to the subdivision site.

(3) In deciding whether to grant development consent to subdivision under this section, the consent authority must consider the extent to which the subdivision is likely to result in reduced public access to foreshores or waterways.

**Note—**

The consent authority is the Minister administering the *Ports and Maritime Administration Act 1995*—see this Policy, section 6.25.

**6.41 Subdivision of land not owned by TfNSW**

(1) Land in the Foreshores and Waterways Area that is not owned by TfNSW may be subdivided with development consent.

(2) In deciding whether to grant development consent to subdivision under this section, the consent authority must consider the extent to which the subdivision is likely to result in reduced public access to foreshores or waterways.

(3) Development consent must not be granted to subdivision under this section unless the consent authority is satisfied the subdivision complies with any development standards imposed by a local environmental plan that—

- (a) relate to subdivision and resulting lots, and
- (b) apply to the subdivision site.

**Division 4 Complying development in Foreshores and Waterways area**

**6.42 Complying development—floating boat platforms**

Development for the purposes of floating boat platforms on land in the Foreshores and Waterways Area is complying development if—

(a) the floating boat platform will be secured to an existing lawful mooring pen in Zone 6 or 7, and

(b) the development complies with the following development standards—

- (i) a floating boat platform must, at all times, have a minimum seabed clearance of 600mm, without the need for dredging,
- (ii) a floating boat platform must be located wholly in the mooring pen to which it is secured,
- (iii) the highest point of a floating boat platform must not be more than 400mm above the water line of the platform when a vessel is berthed on the platform,

- (iv) a floating boat platform must not include a crane, winch or mechanical device,
- (v) the development must use neutral or recessive colours,
- (vi) a floating boat platform must not be located above seagrass or, when being constructed, installed or used, have an adverse impact on seagrass.

**6.43 Complying development—boat sheds, mooring pens, private landing facilities, private landing steps, skids and slipways**

- (1) Maintenance in relation to existing lawful boat sheds, mooring pens, private landing facilities, private landing steps, skids or slipways that are on land in the Foreshores and Waterways Area and are not used for a commercial purpose is complying development if—
  - (a) the maintenance will not be carried out on a heritage item or draft heritage item, and
  - (b) the development complies with the development standards specified in this section.
- (2) The maintenance must—
  - (a) use materials that are at least equivalent to the quality of the existing approved materials being repaired or replaced, and
  - (b) use recessive colours sympathetic to the existing natural landscape and built form, and
  - (c) satisfy any applicable provisions of AS 4997—2005, *Guidelines for the design of maritime structures*, and
  - (d) satisfy any applicable provisions of the *Building Code of Australia*.
- (3) If there are no applicable provisions of the *Building Code of Australia* for subsection (2)(d), the maintenance must—
  - (a) be structurally adequate, and
  - (b) not change the classification of the building under the *Building Code of Australia*.
- (4) The maintenance must not—
  - (a) increase the height or site coverage of a building, or
  - (b) result in a pile being left exposed in the zoned waterway, or
  - (c) reduce the amount of light penetration to the water below, or
  - (d) involve disturbance of, or harm to, marine vegetation, an aquatic reserve or the

bed of a waterway.

- (5) Maintenance that involves removing or replacing damaged or degraded piles must also—
  - (a) not cause a deterioration in water quality or dispose of spoil in the waterway, and
  - (b) use silt curtains or similar effective methods to control pollution.
- (6) Maintenance that involves the repair or replacement of a winch or other device used for lifting a vessel must also not result in a winch or device that is larger in size or capacity than the winch or device being repaired or replaced.
- (7) In this section—

**draft heritage item** has the same meaning as in [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#).

**harm**, in relation to marine vegetation, has the same meaning as in the [Fisheries Management Act 1994](#), Part 7A.

**maintenance** means structural repairs, replacement or other maintenance.

**marine vegetation** has the same meaning as in the [Fisheries Management Act 1994](#).

**Note—**

Approvals may be required under the [Fisheries Management Act 1994](#) and the [Protection of the Environment Operations Act 1997](#).

## Division 5 Strategic foreshore sites

### 6.44 Definitions

In this Division—

**appropriate authority**, for a strategic foreshore site, means—

- (a) if State significant development is proposed to be carried out on the site—the Minister, or
- (b) otherwise—the council of the local government area that includes, or is nearest to, the strategic foreshore site.

**master plan** means a master plan referred to in section 6.47.

**strategic foreshore site** means a site identified as a strategic foreshore site on the [Strategic Foreshore Sites Map](#).

**Strategic Foreshore Sites Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Strategic Foreshore Sites Map](#).

#### **6.45 Land to which Division applies**

- (1) This Division applies to a strategic foreshore site.
- (2) In this Division, a reference to a strategic foreshore site includes a reference to the whole of a structure, including a wharf, that is—
  - (a) located partly on land in a strategic foreshore site and partly on waters adjoining the site, and
  - (b) related to the strategic foreshore site.
- (3) This Division does not apply to—
  - (a) land reserved or acquired under the [National Parks and Wildlife Act 1974](#) or waterfront land that abuts, and is managed in the same way as, that land, or
  - (b) unless the Minister directs otherwise—the City Foreshores Area or Garden Island, as identified on the [Strategic Foreshore Sites Map](#)

#### **6.46 Development to which Division does not apply**

- (1) This Division does not apply to the following development—
  - (a) the change of use of an existing building to another use,
  - (b) the extension or other variation of operating or trading hours,
  - (c) the temporary use of an existing building for 2 years or less,
  - (d) structural or non-structural alterations to the interior of an existing building,
  - (e) minor structural or non-structural alterations to the exterior of an existing building,
  - (f) the erection or installation of a line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure or work in connection with a telecommunications network, other than a structure that, when erected or installed, would be visible from a natural waterbody,
  - (g) the erection or installation of an awning or canopy,
  - (h) the erection of a temporary structure for a period of not more than 60 days, whether consecutive or not, in a period of 12 months,
  - (i) the provision and use of outdoor seating, tables or street furniture, including benches, bollards, public artwork installations, street lights, telephone kiosks and tree surrounds, on a footpath or in a plaza or other public place,

- (j) the use of the public domain for temporary purposes, including the conduct of a festival, performance or promotion or the exhibition of artworks, for a period of not more than 30 days, whether consecutive or not, in a period of 12 months,
- (k) the construction of an access way for pedestrians or vehicles and associated works,
- (l) the erection, installation or display of signage, other than—
  - (i) an advertising structure, or
  - (ii) signage that would be visible from a natural waterbody when erected, installed or displayed,
- (m) the strata subdivision or neighbourhood subdivision of land in relation to a building or work for which a development consent is in force, except where the land forms part of the public domain or is situated over water,
- (n) the demolition of a building or structure other than—
  - (i) a heritage item, or
  - (ii) a building or structure identified as a heritage item or an item of environmental heritage in an environmental planning instrument or a heritage study prepared by or on behalf of a consent authority,
- (o) the demolition of a structure, the erection of which is development to which this Division does not apply, other than demolition associated with a project that was approved under the Act, Part 3A before its repeal, or granted after its repeal under the Act, Schedule 6A or the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, Schedule 2.

(2) In this section—

**existing building** does not include an existing temporary structure.

**neighbourhood subdivision** means subdivision by the following, within the meaning of the *Community Land Development Act 2021*—

- (a) a neighbourhood plan,
- (b) a neighbourhood plan of consolidation,
- (c) a neighbourhood plan of subdivision.

**strata subdivision** means subdivision by the following, within the meaning of the *Strata Schemes Development Act 2015*—

- (a) a strata plan,

- (b) a strata plan of consolidation,
- (c) a strata plan of subdivision.

#### **6.47 Master plans**

- (1) A master plan for a strategic foreshore site must illustrate and explain, as appropriate, proposals for the following—
  - (a) design principles drawn from an analysis of the site and its context,
  - (b) phasing of development,
  - (c) the distribution of land uses, including foreshore public access and open space,
  - (d) pedestrian, cycle and motor vehicle access and circulation networks,
  - (e) provision for parking,
  - (f) provision for infrastructure,
  - (g) building envelopes and built form controls,
  - (h) heritage conservation, including the implementation of heritage management documents or applicable publicly available policies,
  - (i) remediation of the site,
  - (j) provision of public facilities,
  - (k) provision of open space, including the function and landscaping of the space,
  - (l) any impact on adjoining land reserved or acquired under the [National Parks and Wildlife Act 1974](#) and measures to be taken in relation to the impact,
  - (m) the protection and enhancement of the natural assets of the site and land adjoining the site,
  - (n) the protection and enhancement of natural waterbodies and aquatic ecology on or adjoining the site.
- (2) A master plan may apply to all or part of a strategic foreshore site.
- (3) A master plan may apply to part of a strategic foreshore site only if the appropriate authority is satisfied the approval of a master plan for the specified part of the site will not compromise the following matters—
  - (a) the water quality and river flows of natural waterbodies and ground water,
  - (b) ecological connectivity and aquatic ecology,

- (c) the maintenance and restoration of the natural assets, vantage points and visual qualities of Sydney Harbour,
- (d) the achievement of the targets set out in *Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment* published in 1999 by the Environment Protection Authority,
- (e) the achievement of the targets set out in the *Sydney Harbour Catchment Blueprint* published in 2003 by the Department of Land and Water Conservation,
- (f) the functioning of natural drainage systems on floodplains,
- (g) existing measures to rehabilitate land and prevent land degradation,
- (h) the avoidance or minimisation of acid sulfate soil disturbance,
- (i) public access to foreshores and waterways,
- (j) the operation of the Foreshores and Waterways Area for industrial and commercial purposes,
- (k) existing public transport operations and boating facilities,
- (l) existing protections for heritage items.

#### **6.48 Preparation of draft master plans**

- (1) A draft master plan for a strategic foreshore site may be prepared by or on behalf of the following—
  - (a) the owner or lessee of the land to which the master plan will apply,
  - (b) the council of the local government area that includes, or is nearest to, the strategic foreshore site (the **relevant council**),
  - (c) the Planning Secretary.
- (2) The following must be consulted during preparation of a draft master plan—
  - (a) the owner or lessee of the land to which the master plan will apply,
  - (b) the relevant council,
  - (c) the Minister, if the master plan—
    - (i) is for a strategic foreshore site located partly or wholly outside a local government area or for which the Minister is the appropriate authority, or
    - (ii) applies only to part of a strategic foreshore site.



- (3) A draft master plan must be published on the NSW planning portal for at least 21 days before it is approved by the appropriate authority (the **exhibition period**).
- (4) At the beginning of the exhibition period, notice of the draft master plan must be given to the following—
  - (a) the relevant council,
  - (b) the Planning Secretary,
  - (c) public authorities and community organisations the appropriate authority considers relevant to the strategic foreshore site or development on the site.

#### **6.49 Approval and amendment of master plans**

- (1) Before approving a master plan, the appropriate authority must consider written submissions received during the exhibition period under section 6.48.
- (2) A master plan approved by the appropriate authority—
  - (a) must be published on the NSW planning portal, and
  - (b) takes effect on the day of the publication.
- (3) A master plan may be amended by another master plan.
- (4) An amendment to a master plan may be dealt with concurrently with a development application.

#### **6.50 Consideration of master plan**

- (1) Development consent must not be granted to development on a strategic foreshore site unless—
  - (a) a master plan has been approved for the strategic foreshore site or for the part of the strategic foreshore site on which the development will be carried out, and
  - (b) the consent authority has considered the master plan.
- (2) The Minister may determine subsection (1) does not apply to specified development if the Minister is satisfied a master plan is unnecessary because of—
  - (a) the nature of the development, or
  - (b) the fact that the development will affect only a small portion of the relevant strategic foreshore site, having regard to the overall size of the site, or
  - (c) the adequacy of other planning controls applying to the development, or
  - (d) another reason the Minister considers sufficient.

- (3) The Minister must not make the determination unless the Minister is satisfied the development will not compromise the matters specified in section 6.47(3).
- (4) If the Minister makes a determination and is not the consent authority for the development, the Minister must give written notice of the determination to the consent authority.

## **Part 6.4 Heritage conservation in Sydney Harbour**

### **6.51 Application of Part**

This Part applies to land in the Sydney Harbour catchment that is—

- (a) shown on the [Heritage Map](#) for the purposes of identifying a heritage item, or
- (b) an Aboriginal place of heritage significance.

**Note—**

Heritage items, other than Aboriginal places of heritage significance, are listed in Schedule 5.

### **6.52 Heritage development**

In this Part—

***heritage development*** means development that involves one or more of the following—

- (a) demolishing or moving, or altering the exterior, including by changing the detail, fabric, finish or appearance of a building, of—
  - (i) a heritage item, or
  - (ii) an Aboriginal object, or
  - (iii) a building, work, relic or tree within a place or site that is a heritage item,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on, or subdividing, land—
  - (i) on which a heritage item or Aboriginal object is located, or
  - (ii) within a place or site that is a heritage item,

- (f) development near a heritage item, including development that—
  - (i) may have an impact on the setting of the heritage item, including by affecting a significant view to or from the item or by overshadowing, or
  - (ii) may undermine or otherwise cause physical damage to the heritage item, or
  - (iii) will otherwise have an adverse impact on the heritage significance of the heritage item.

### **6.53 Requirement for development consent**

- (1) Heritage development may be carried out only with development consent.
- (2) Despite subsection (1), development consent is not required for the following development—
  - (a) development that—
    - (i) is in a cemetery or burial ground, and
    - (ii) is the creation of a new grave or monument, or excavation or disturbance of land for the purposes of conserving or repairing monuments or grave markers, and
    - (iii) will not cause disturbance to human remains, relics or Aboriginal objects in the form of grave goods or to an Aboriginal place of heritage significance,
  - (b) development that involves only the removal of a tree or other vegetation the consent authority is satisfied is a risk to human life or property.
- (3) The consent authority may, before work is carried out, give written notice to an applicant for development consent for heritage development that development consent is not required if the consent authority is satisfied the development—
  - (a) is of a minor nature or is for the maintenance of—
    - (i) a heritage item, or
    - (ii) a building, work, relic, tree or place on a site that is a heritage item, or
    - (iii) an Aboriginal object, or
    - (iv) an archaeological site, and
  - (b) will not adversely affect the heritage significance of the item, object or site.
- (4) In deciding whether to grant development consent to heritage development, the consent authority must consider the effect of the development on the heritage significance of the item, object or site.

- (5) In considering the effect of heritage development under subsection (4), the consent authority must consider the following—
  - (a) the heritage significance of the item, object or site as part of the environmental heritage of the land to which this Part applies,
  - (b) the impact of the development on the heritage significance of the item, object or site and its setting, including landscape or horticultural features,
  - (c) the measures proposed to conserve the heritage significance of the item, object or site and its setting,
  - (d) whether an archaeological site will be adversely affected by the development,
  - (e) the extent to which the development will affect the form of historic subdivisions,
  - (f) other matters the consent authority considers relevant.

#### **6.54 Aboriginal places of heritage significance**

- (1) This section applies to heritage development that is—
  - (a) in an Aboriginal place of heritage significance, or
  - (b) likely to have an impact on an Aboriginal place of heritage significance.
- (2) The consent authority must, within 14 days of the lodgment of a development application for heritage development to which this section applies, give written or other appropriate notice of the development to the local Aboriginal communities.
- (3) Development consent must not be granted to heritage development to which this section applies unless the consent authority has considered the following—
  - (a) after adequate investigation and assessment, the impact of the development on—
    - (i) the heritage significance of the Aboriginal place of heritage significance, and
    - (ii) any Aboriginal object known or reasonably likely to be located at the place,
  - (b) submissions received from the local Aboriginal communities within 28 days after notice is given under subsection (2).
- (4) The investigation and assessment under subsection (3)(a) may include consideration of proposals for measures to minimise the impact.

#### **6.55 Archaeological sites**

- (1) Development consent must not be granted to heritage development that is on an archaeological site unless the consent authority has—
  - (a) notified the Heritage Council of the heritage development, and

(b) considered any submissions made by the Heritage Council within 28 days after the notice is given.

(2) This section does not apply to land—

(a) listed on the State Heritage Register under the *Heritage Act 1977*, or

(b) to which an interim heritage order under the *Heritage Act 1977* applies.

#### **6.56 Demolition of nominated State heritage items**

(1) Development consent must not be granted to the demolition of a nominated State heritage item unless the consent authority has—

(a) notified the Heritage Council of the demolition, and

(b) considered any submissions made by the Heritage Council within 28 days after the notice is given.

(2) In this section—

***nominated State heritage item*** means a heritage item that—

(a) is identified as an item of State significance in a publicly exhibited heritage study adopted by a council, and

(b) the council has, by written notice to the Heritage Council, nominated as an item of potential State significance.

#### **6.57 Conservation incentives**

(1) This section applies to development that—

(a) involves a building that is a heritage item, or

(b) is on land on which a building that is a heritage item is located, or

(c) is in an Aboriginal place of heritage significance.

(2) Development consent may be granted to development to which this section applies, even if the development would otherwise be prohibited under this Chapter, if the consent authority is satisfied of the following—

(a) the conservation of the heritage item or Aboriginal place of heritage significance will be facilitated by the granting of development consent,

(b) if a heritage management document or other document approved by the consent authority contains guidelines for the ongoing management and conservation of, or proposals to minimise the impact of development on, the heritage item or Aboriginal place of heritage significance—the development will be consistent with the guidelines or proposals,

- (c) the development will not adversely affect the heritage significance of—
  - (i) the heritage item, including its setting, or
  - (ii) the Aboriginal place of heritage significance,
- (d) the development will not have a significant adverse effect on the amenity of the surrounding area.

## Part 6.5 Sydney Drinking Water Catchment

### 6.58 Objectives of Part

The objectives of this Part are—

- (a) to provide for healthy water catchments that will deliver high quality water to the Sydney area while also permitting compatible development, and
- (b) to provide for development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.

### 6.59 Definitions

In this Part—

**NorBE Guideline** means the document titled *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2022* published by Water NSW on the date on which [State Environmental Planning Policy Amendment \(Water Catchments\) 2022](#) commences.

**NorBE Tool** means the tool titled *Neutral or Beneficial Effect on Water Quality Assessment Tool* set out in Appendix 1 to the NorBE Guideline.

**Regulatory Authority** has the same meaning as in the [Water NSW Act 2014](#).

### 6.60 Declaration of Sydney drinking water catchment

For the Act, section 3.26(1), the Sydney catchment area, within the meaning of the [Water NSW Act 2014](#), is declared to be the Sydney drinking water catchment.

**Note—**

The [Water NSW Act 2014](#), Schedule 2, clause 17 provides that the Sydney catchment area is taken to be the area defined as the **catchment area** under the repealed [Sydney Water Catchment Management Act 1998](#) (the **repealed Act**). Declarations under the repealed Act, section 41 were published in Government Gazette No 76 of 2 July 1999, pp 4648 and 4649.

### 6.61 Requirement of neutral or beneficial effect on water quality

- (1) Development consent must not be granted to development relating to any part of the Sydney Drinking Water Catchment unless the consent authority is satisfied the carrying out of the development would have a neutral or beneficial effect on water quality.

**Note—**

See the Act, section 3.26(2).

- (2) For the purposes of determining whether the carrying out of the development would have a neutral or beneficial effect on water quality, the consent authority must, if the development is development to which the NorBE Tool applies, undertake an assessment using the NorBE Tool.
- (3) The NorBE Tool applies to development requiring development consent under the Act, Part 4, other than State significant development.

**6.62 Neutral or beneficial effect on water quality—extension or expansion of existing development**

- (1) This section applies if—

- (a) development consent was granted to continuing development (the **existing development consent**), and
- (b) a development application is made for development consent to development to extend or expand the continuing development (the **additional development**), and
- (c) the development application is made before the authority conferred by the existing development consent expires or is exhausted.

- (2) For section 6.61(1), the carrying out of the additional development will have a neutral or beneficial effect on water quality if it will have the same or a lesser adverse impact on water quality than the adverse impact the continuing development would have if it were extended or expanded under similar conditions to the existing development consent.

**Note—**

See the Act, section 3.26(2A).

- (3) This section extends to an existing development consent that will be surrendered if development consent is granted to the additional development.
- (4) In this section, a reference to an existing development consent includes a reference to a project that was approved under the Act, Part 3A before its repeal, or granted after its repeal under the Act, Schedule 6A or the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, Schedule 2.
- (5) In this section—

**continuing development** means development for which development consent was limited to the carrying out of the development for a particular time, in a particular area or at a particular intensity, but which was likely to be the subject of future

applications for development consent for its extension or expansion.

**Example—**

Development for the purposes of mining could be continuing development.

### **6.63 Requirement of consistency with NorBE Guideline**

Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority is satisfied the development is consistent with the NorBE Guideline.

### **6.64 Concurrence of Regulatory Authority**

- (1) Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority has obtained the concurrence of the Regulatory Authority.
- (2) For the Act, section 3.18(3), the Regulatory Authority must consider the following matters in deciding whether to grant concurrence—
  - (a) the NorBE Guideline,
  - (b) whether the development will have a neutral or beneficial effect on water quality.
- (3) The consent authority must, within 10 days after determining a development application that required the concurrence of the Regulatory Authority, give a copy of the determination of the development application to the Regulatory Authority.
- (4) This section does not apply if the consent authority is satisfied the development has no potential impact on water quality.

## **Part 6.6 Miscellaneous**

### **6.65 Savings and transitional provisions**

- (1) The former provisions continue to apply, and the other provisions of this Chapter do not apply, to an application for development consent lodged, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Water Catchments) 2022*.
- (2) A master plan adopted and in force under section 10.46 immediately before its repeal by *State Environmental Planning Policy Amendment (Water Catchments) 2022* is taken, on and from the commencement of this Chapter, to have effect as a master plan within the meaning of Part 6.3, Division 5.
- (3) In this section—

**former provisions** means—

  - (a) Chapters 6–12 as in force immediately before their repeal by *State Environmental*



*Planning Policy Amendment (Water Catchments) 2022*, and

- (b) the provisions of each environmental planning instrument amended by *State Environmental Planning Policy Amendment (Water Catchments) 2022* that would be in force if the instrument had not been amended by that Policy.

## **Chapters 7-12**

### **7.1-12.10 (Repealed)**

## **Chapter 13 Strategic conservation planning**

### **Part 13.1 Preliminary**

#### **13.1 Land to which Chapter applies**

- (1) This Chapter applies to land shown on the [Land Application Map](#).
- (2) This Chapter does not apply to land subject to a claim lodged in accordance with the [Aboriginal Land Rights Act 1983](#), section 36.
- (3) Parts 13.3 and 13.4 do not apply to land acquired or reserved under the [National Parks and Wildlife Act 1974](#).

#### **13.2 Aims of Chapter**

The aims of this Chapter are as follows—

- (a) to ensure development in the nominated areas is consistent with the biodiversity certification under the [Biodiversity Conservation Act 2016](#), Part 8 and strategic assessment under the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth, Part 10,
- (b) to facilitate appropriate development on biodiversity certified areas,
- (c) to identify and protect areas with high biodiversity value or regionally significant biodiversity that can support ecological functions, including threatened ecological communities, species and areas with important connectivity or ecological restoration potential,
- (d) to avoid or minimise impacts from future development on biodiversity values in areas with high biodiversity value,
- (e) to support the acquisition of priority areas with high biodiversity value as conservation lands in perpetuity.

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

- (1) This Chapter prevails over another provision of this Policy or another environmental

planning instrument, whether made before or after this Chapter, to the extent of an inconsistency.

- (2) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 3.20 prevails to the extent of an inconsistency between the section and this Chapter.

#### 13.4 Definitions

- (1) In this Chapter—

**avoided land** means land identified as “avoided land” on the [Avoided Land Map](#).

**Avoided Land Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Strategic Conservation Planning Avoided Land Map](#).

**certified urban capable land** means land identified as “certified urban capable land” on the [Certified Urban Capable Land Map](#).

**Certified Urban Capable Land Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Strategic Conservation Planning Certified Urban Capable Land Map](#).

**Cumberland Plain Conservation Plan** means the document titled “*Cumberland Plain Conservation Plan*” published by the Department on the commencement of this Chapter and available on the NSW planning portal.

**Cumberland Plain Conservation Plan Guidelines** means the document titled “*Cumberland Plain Conservation Plan Guidelines for Infrastructure Development*” published by the Department on the commencement of this Chapter and available on the NSW planning portal.

**Land Application Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Strategic Conservation Planning Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Strategic Conservation Planning Land Reservation Acquisition Map](#).

**Note—**

When this Chapter commenced, there was no [Land Reservation Acquisition Map](#).

**strategic conservation area** means land identified as “strategic conservation area” on the [Strategic Conservation Area Map](#).

**Strategic Conservation Area Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Strategic Conservation Planning Strategic Conservation Area Map](#).

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

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Chapter.

- (2) Words used in this Chapter have the same meanings as in the *Biodiversity Conservation Act 2016* unless otherwise defined in this Chapter.

### **13.5 Maps**

- (1) A reference in this Chapter to a named map adopted by this Chapter is a reference to a map by that name—
- (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Chapter to a named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Chapter must be kept electronically and made available for public access in accordance with arrangements approved by the Minister.

## **Part 13.2 Development controls—general**

### **13.6 Koala fences and fauna crossings**

- (1) Development involving the erection, maintenance or modification of a fauna crossing or koala fence may be carried out by or on behalf of a public authority without development consent if the crossing or fence is consistent with the Cumberland Plain Conservation Plan.
- (2) In this section—

**fauna crossing** means a crossing to facilitate the movement of fauna across the land.

**koala fence** means a fence used to impede the movement of koalas towards roads and urban land, whether or not the fence is also used for another purpose.

## **Part 13.3 Development controls—avoided land**

### **13.7 Preservation of native vegetation on avoided land**

- (1) The objectives of this section are—
- (a) to protect and enhance native vegetation on avoided land, and

- (b) to promote the conservation of, and minimise the impact of development on, native vegetation.
- (2) A person must not clear native vegetation on avoided land without development consent.
- (3) Development consent must not be granted for the clearing of native vegetation unless the consent authority is satisfied—
  - (a) sufficient measures have been, or will be, taken—
    - (i) to avoid or minimise the impact of the development on biodiversity values, and
    - (ii) to avoid the impact of the development on matters of national environmental significance set out in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, Chapter 2, Part 3, Division 1, and
    - (iii) to protect or enhance the biodiversity values and ecological integrity of the land, and
  - (b) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (c) the loss of native vegetation caused by the disturbance will be compensated by—
    - (i) revegetation on the land on which the development is carried out of an amount equivalent to a ratio of at least 1:1, or
    - (ii) a condition imposed on the development consent under the *Biodiversity Conservation Act 2016*, section 7.13(3) requiring the applicant to retire biodiversity credits, and
  - (d) the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.
- (4) This section does not apply to the following—
  - (a) clearing of native vegetation carried out by or on behalf of a public authority,
  - (b) clearing to remove vegetation that the council is satisfied is a risk to human life or property,
  - (c) bush fire hazard reduction work carried out in accordance with *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.52(8).

**Note—**

Development consent is not required for clearing for the construction and maintenance of certain fences and

farm tracks—see section 13.18.

### 13.8 Development on avoided land generally

- (1) The objectives of this section are as follows—
  - (a) to protect threatened ecological communities, threatened species and their habitats,
  - (b) to protect and enhance koala habitat and corridors,
  - (c) to protect matters of national environmental significance,
  - (d) to encourage the conservation and recovery of ecological communities and their habitats.
- (2) Development consent must not be granted for development on avoided land unless the consent authority has considered whether the development is likely to cause an adverse impact on the following—
  - (a) threatened ecological communities, threatened species and their habitats, both on the site of the development and on adjoining land that is avoided land,
  - (b) habitat connectivity and fauna movement, including koala and wildlife corridors, both on the site of the development and on adjoining land that is avoided land,
  - (c) the integrity and resilience of the biophysical, ecological and hydrological environments, including surface and groundwater, and the quality of the natural flow of water in a riparian corridor,
  - (d) matters of national environmental significance set out in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, Chapter 2, Part 3, Division 1.
- (3) Development consent must not be granted to development on avoided land unless the consent authority is satisfied that—
  - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (2) (an **adverse impact**), and
  - (b) the height, bulk, scale, size and proposed use of the development avoids an adverse impact, and
  - (c) supporting infrastructure required for the development avoids an adverse impact.
- (4) Subsection (3) does not apply to development to which section 13.9 applies.

### 13.9 Infrastructure development on avoided land

- (1) This section applies to development carried out on avoided land under *State*

*Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 4, 5, 12A, 17, 18, 20, 21, 23 or 24.

- (2) Development consent must not be granted to development to which this section applies unless the consent authority is satisfied that—
  - (a) the development is designed, sited and will be managed to avoid or minimise an adverse impact, and
  - (b) the height, bulk, scale, size and proposed use of the development avoids or minimises an adverse impact, and
  - (c) supporting infrastructure required for the development avoids or minimises an adverse impact.
- (3) Development consent must not be granted to development to which this section applies unless the consent authority has considered whether the development is consistent with the Cumberland Plain Conservation Plan Guidelines, Part 2.
- (4) As soon as practicable after granting development consent to development to which this section applies, the consent authority must give written notice to the Planning Secretary, including—
  - (a) a copy of the development application, and
  - (b) a statement setting out whether the consent authority considers the development is consistent with the Cumberland Plain Conservation Plan Guidelines, Part 2.
- (5) This section does not apply to State significant development.
- (6) In this section—

**adverse impact** has the same meaning as in section 13.8(3)(a).

### **13.10 Subdivision of avoided land**

- (1) Development consent must not be granted to the subdivision of avoided land unless—
  - (a) the consent authority is satisfied the subdivision is necessary for the purposes of entering into a biodiversity stewardship agreement in relation to the land, or
  - (b) the subdivision will be carried out by or on behalf of a public authority and relates to development carried out under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 4, 5, 12A, 17, 18, 20, 21, 23 or 24.
- (2) If land is identified by this Chapter as avoided land and land in a strategic conservation area, this section prevails over section 13.13.
- (3) This section does not apply to a subdivision of land carried out by the National Parks

and Wildlife Service.

## **Part 13.4 Development controls—strategic conservation area**

### **13.11 Preservation of native vegetation in strategic conservation area**

- (1) The objectives of this section are—
  - (a) to protect and enhance native vegetation on land in a strategic conservation area, and
  - (b) to promote the conservation of, and minimise the impact of development on, native vegetation.
- (2) A person must not clear native vegetation on land in a strategic conservation area without development consent.
- (3) Development consent must not be granted for the clearing of native vegetation unless the consent authority is satisfied—
  - (a) sufficient measures have been, or will be, taken—
    - (i) to avoid or minimise the impact of the development on biodiversity values, and
    - (ii) to protect or enhance the biodiversity values and ecological integrity of the land, and
  - (b) there is no reasonable alternative available to the disturbance of the native vegetation caused by the clearing, and
  - (c) the loss of native vegetation caused by the disturbance will be compensated by—
    - (i) revegetation on the land on which the development is carried out of an amount equivalent to a ratio of at least 1:1, or
    - (ii) a condition imposed on the development consent, under the *Biodiversity Conservation Act 2016*, section 7.13(3), requiring the applicant to retire biodiversity credits, and
  - (d) the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.
- (4) This section does not apply to the following—
  - (a) clearing of native vegetation carried out by or on behalf of a public authority,
  - (b) clearing to remove vegetation that the council is satisfied is a risk to human life or property,
  - (c) bush fire hazard reduction work carried out in accordance with *State*

*Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.52(8).

**Note—**

Development consent is not required for clearing for the construction and maintenance of certain fences and farm tracks—see section 13.18.

**13.12 Development on land in strategic conservation area generally**

- (1) The objectives of this section are as follows—
  - (a) to minimise the impacts of development on areas with regionally significant biodiversity, including threatened ecological communities, threatened species and their habitats,
  - (b) to maintain and enhance ecological function,
  - (c) to protect and enhance koala habitat and corridors.
- (2) Development consent must not be granted to development on land in a strategic conservation area unless the consent authority has considered whether the development is likely to cause an adverse impact on the following—
  - (a) the biodiversity values of the land,
  - (b) threatened ecological communities, threatened species and their habitats, both on the site of the development and on adjoining land in a strategic conservation area,
  - (c) habitat connectivity and fauna movement, including koala and wildlife corridors and links to ecological restoration areas, both on the site of the development and on adjoining land in a strategic conservation area,
  - (d) the integrity and resilience of the biophysical, ecological and hydrological environments, including surface and groundwater, and the quality of the natural flow of water in a riparian corridor,
  - (e) matters of national environmental significance set out in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, Chapter 2, Part 3, Division 1.
- (3) Development consent must not be granted to development on land in a strategic conservation area unless the consent authority has considered whether the cumulative impact of the development and other development for which consent or an approval has been granted in relation to the land is likely to cause an adverse impact on the following—
  - (a) the matters referred to in subsection (2)(a)–(e),
  - (b) the potential for the ecological restoration of the land,



- (c) adjoining land identified as a strategic conservation area.
- (4) Development consent must not be granted to development on land in a strategic conservation area unless the consent authority is satisfied that—
  - (a) the development is designed, sited and will be managed to avoid or minimise an adverse impact referred to in subsection (2) or (3) (an **adverse impact**), and
  - (b) the height, bulk, scale, size and proposed use of the development avoids or minimises an adverse impact, and
  - (c) supporting infrastructure required for the development avoids or minimises an adverse impact.
- (5) Subsection (4) does not apply to land identified by this Chapter as avoided land and land in a strategic conservation area.

### **13.13 Subdivision of land in strategic conservation area**

Development consent must not be granted for the subdivision of land in a strategic conservation area unless the consent authority is satisfied the subdivision—

- (a) will allow for the continued protection of threatened ecological communities, threatened species and their habitats, and
- (b) will facilitate the long-term biodiversity conservation management of the land, and
- (c) will not increase the risk of disturbance to threatened ecological communities, threatened species and their habitats, and
- (d) will not increase the potential for land use conflict or intensify land uses.

### **13.14 Ecological restoration works**

- (1) Development for the purposes of environmental protection works may be carried out by or on behalf of a public authority without development consent if the environmental protection works will give effect to the Cumberland Plain Conservation Plan.
- (2) In this section—

**environmental protection works** has the same meaning as in the standard instrument set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

## **Part 13.5 Development on certified urban capable land**

### **13.15 Asset protection zones**

Development consent must not be granted to development involving an asset protection

zone on certified urban capable land unless the asset protection zone is located wholly on certified urban capable land.

### **13.16 Mitigation measures**

(1) Development consent must not be granted to development on certified urban capable land unless the consent authority has considered whether the development is consistent with the Cumberland Plain Conservation Plan Mitigation Measures Guideline.

(2) In this section—

***Cumberland Plain Conservation Plan Mitigation Measures Guideline*** means the document titled “*Cumberland Plain Conservation Plan Mitigation Measures Guideline*” published by the Department on the commencement of this Chapter and available on the NSW planning portal.

## **Part 13.5A Applications to modify conferral of biodiversity certification**

### **Division 1 Preliminary**

#### **13.16A Aim of Part**

The aim of this Part is to establish a process for the Minister to initiate an application to modify biodiversity certification after the assessment of a request from a relevant landowner for a minor modification involving relevant land.

#### **13.16B Definitions**

In this Part—

***biodiversity certification*** has the same meaning as in the [Biodiversity Conservation Act 2016](#).

***modification request***—see section 13.16C(1).

***relevant land*** means the following land—

- (a) certified urban capable land,
- (b) avoided land.

***relevant landowner***—see section 13.16C(2).

### **Division 2 Initial assessment by Minister**

#### **13.16C Application to request preparation of application to modify biodiversity**

**certification**

- (1) An application (a **modification request**) may be made to the Minister to request the preparation of an application to modify, under the *Biodiversity Conservation Act 2016*, section 8.22(1)(a), the biodiversity certification for certified urban capable land by including or excluding relevant land.
- (2) A modification request may only be made by or on behalf of the owner of relevant land (a **relevant landowner**).
- (3) A modification request must—
  - (a) be made in the approved form, and
  - (b) include or be accompanied by information or evidence the Minister reasonably requires to assess the application, and
  - (c) be accompanied by the application fee.
- (4) The Minister may require further documents or information to be provided by the applicant.
- (5) The applicant may withdraw the modification request at any time before the applicant receives written notice of the decision under section 13.16D(3).

**13.16D Minister may approve further assessment or refuse request**

- (1) The Minister may, after receiving a modification request—
  - (a) approve a further assessment of the request, or
  - (b) refuse the request.
- (2) The Minister may refuse the modification request—
  - (a) if the application—
    - (i) is incomplete, or
    - (ii) does not, in the opinion of the Minister, comply with a requirement of the following—
      - (A) this Part,
      - (B) the Act,
      - (C) the *Biodiversity Conservation Act 2016*,
      - (D) the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or

- (b) for another reason the Minister considers appropriate.
- (3) The Minister must give the following to the applicant—
  - (a) written notice of the decision,
  - (b) if a further assessment of the request is approved—
    - (i) written notice of the fee, if any, required for the further assessment of the request, and
    - (ii) information about how an application to modify the biodiversity certification under the *Biodiversity Conservation Act 2016*, section 8.22 may be made,
  - (c) if the request is refused—the reasons for refusing the request.

### **Division 3 Further assessment of modification request**

#### **13.16E Further assessment of modification request**

- (1) The Minister may carry out a further assessment of a modification request—
  - (a) after approving the further assessment under section 13.16D(1)(a), and
  - (b) on payment of the fee, if any, specified in the notice given to the applicant under section 13.16D(3)(b)(i).
- (2) The Minister may, in carrying out the further assessment, require further documents or information to be provided by the applicant.
- (3) On completion of the further assessment, the Minister must give written notice of the following to the applicant—
  - (a) whether the Minister intends to make an application to modify biodiversity certification under the *Biodiversity Conservation Act 2016*, section 8.22 (the **Minister's application**),
  - (b) information about whether the substance of the applicant's request will be included in the Minister's application,
  - (c) a copy of the part of the Minister's application, if any, relating to the applicant's request.
- (4) The applicant is not, at any time, entitled to request changes to the Minister's application.

### **Part 13.6 Miscellaneous**

### 13.17 Relevant acquisition authority

- (1) The objective of this section is to identify, for the Act, section 3.15, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under the [Land Acquisition \(Just Terms Compensation\) Act 1991](#), Part 2, Division 3 (**the owner-initiated acquisition provisions**).

**Note—**

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

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

**Type of land shown on Map**

**Authority of the State**

National park or public reserve

Planning Ministerial Corporation

**Note—**

When this Chapter commenced, no Land Reservation Acquisition Map was adopted because no national park or public reserve had been identified.

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

### 13.18 Clearing for construction and maintenance of fences and farm tracks

- (1) This section applies to the following land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA—

- (a) avoided land,
- (b) land in a strategic conservation area.

- (2) Development consent is not required under section 13.7 or 13.11 if the clearing is for—

- (a) the construction of a permanent boundary fence, or
- (b) the maintenance of—
  - (i) an existing permanent boundary fence, or

- (ii) an existing permanent internal fence, or
  - (iii) an existing farm track.
- (3) The maximum clearing distance is 6m.
- (4) The clearing must be carried out by or on behalf of the landholder.
- (5) The clearing must be carried out in a way that minimises the risk of soil erosion.
- (6) The clearing must be carried out only to the minimum extent necessary for the purpose for which the clearing is carried out.
- (7) This section does not authorise the clearing of native vegetation on land subject to an order under the *Biodiversity Conservation Act 2016*, Part 11.
- (8) In subsection (3), the maximum clearing distance is measured in the way specified in section 2.27.

### 13.19 Savings and transitional provision

- (1) A development application for development on land to which this Chapter applies that was made, and not finally determined, before the commencement of this Chapter must be determined as if this Chapter had not commenced.
- (2) Subsection (1) does not apply to a development application for development on the following land at Appin—
- (a) Lot 1, DP 1218358, 55 Macquariedale Road,
  - (b) Lot 1, DP 1148758, 43 Appin Road,
  - (c) Lot 1, DP 249446, 10 Brooks Point Road.
- (3) Subsection (1) does not apply to a development application for development on certified urban capable land that was made, and not finally determined, before 17 August 2022.

## Schedule 1 Feed tree species—Chapter 3

section 3.2

Scientific Name	Common Name
<i>Eucalyptus tereticornis</i>	Forest red gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus viminalis</i>	Ribbon or manna gum

<i>Eucalyptus camaldulensis</i>	River red gum
<i>Eucalyptus haemastoma</i>	Broad leaved scribbly gum
<i>Eucalyptus signata</i>	Scribbly gum
<i>Eucalyptus albens</i>	White box
<i>Eucalyptus populnea</i>	Bimble box or poplar box
<i>Eucalyptus robusta</i>	Swamp mahogany

## Schedule 2 Local government areas—Chapter 4

(sections 4(1), 11(1))

<b>Local government area</b>	<b>Koala management area(s)</b>
Armidale Regional	Northern Tablelands
Ballina	North Coast
Bathurst Regional	Central and Southern Tablelands
Bega Valley	South Coast
Bellingen	North Coast
Berrigan	Riverina
Blayney	Central and Southern Tablelands
City of Blue Mountains *	Central and Southern Tablelands Central Coast
Bourke	Darling Riverine Plains Far West
Brewarrina	Darling Riverine Plains Far West
Byron	North Coast
Cabonne	Central and Southern Tablelands
City of Campbelltown *	Central Coast
Central Coast *	Central Coast
Central Darling	Far West
City of Cessnock	Central Coast
Clarence Valley	North Coast
City of Coffs Harbour	North Coast
Coonamble	Darling Riverine Plains Northwest Slopes

Dungog	Central Coast
Edward River	Riverina
Eurobodalla	South Coast
Federation	Central and Southern Tablelands Far West Riverina
Forbes	Far West
Gilgandra	Northwest Slopes
Glen Innes Severn Shire	Northern Tablelands
Goulburn Mulwaree	Central and Southern Tablelands
Greater Hume Shire	Central and Southern Tablelands Far West Riverina
Gunnedah	Northwest Slopes
Gwydir	Northwest Slopes
City of Hawkesbury *	Central Coast
Hilltops	Central and Southern Tablelands Far West
Hornsby *	Central Coast
Inverell	Northern Tablelands Northwest Slopes
Kempsey	North Coast
Ku-ring-gai *	Central Coast
Kyogle	North Coast
City of Lake Macquarie	Central Coast
Leeton	Far West Riverina
City of Lismore	North Coast
City of Lithgow	Central and Southern Tablelands
City of Liverpool *	Central Coast
Liverpool Plains	Northwest Slopes
Lockhart	Central and Southern Tablelands Far West
City of Maitland	Central Coast



Mid-Coast	North Coast
Mid-Western Regional	Northwest Slopes
Moree Plains	Northwest Slopes
Murray River	Far West Riverina
Muswellbrook	Central Coast
Nambucca Valley	North Coast
Narrabri	Northwest Slopes
Narrandera	Far West Riverina
Narromine	Darling Riverine Plains Far West
City of Newcastle	Central Coast
Northern Beaches *	Central Coast
Oberon	Central and Southern Tablelands
Parkes	Far West
Port Macquarie-Hastings	North Coast
Port Stephens	Central Coast
Queanbeyan-Palerang Regional	Central and Southern Tablelands
Richmond Valley	North Coast
City of Shoalhaven	Central and Southern Tablelands South Coast
Singleton	Central Coast
Snowy Monaro Regional	Central and Southern Tablelands
Snowy Valleys	Central and Southern Tablelands
Tamworth Regional	Northern Tablelands
Tenterfield	Northern Tablelands
Tweed	North Coast
Upper Hunter Shire	Northwest Slopes
Upper Lachlan Shire	Central and Southern Tablelands
Uralla	Northern Tablelands
City of Wagga Wagga	Central and Southern Tablelands Far West

Walcha	Northern Tablelands
Walgett	Darling Riverine Plains Northwest Slopes
Warren	Darling Riverine Plains
Warrumbungle Shire	Northwest Slopes
Weddin	Central and Southern Tablelands Far West
Wentworth	Far West Riverina
Wingecarribee	Central and Southern Tablelands Central Coast
Wollondilly *	Central and Southern Tablelands Central Coast
City of Wollongong	South Coast
Yass Valley	Central and Southern Tablelands

### Schedule 3 Koala use tree species—Chapter 4

(section 4.9)

#### Central and Southern Tablelands koala management area

Scientific name	Common name(s)
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bosistoana</i>	Coast Grey Box
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus dalrympleana</i>	Mountain Gum
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dives</i>	Broad-leaved Peppermint
<i>Eucalyptus elata</i>	River Peppermint
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark

<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus goniocalyx</i>	Bundy
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus maidenii</i>	Maiden's Blue Gum
<i>Eucalyptus mannifera</i>	Brittle Gum
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus nortonii</i>	Large-flowered Bundy
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus oblonga</i>	Stringybark
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus polyanthemos</i>	Red Box
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus radiata</i>	Narrow leaved Peppermint
<i>Eucalyptus rossii</i>	Inland Scribbly Gum
<i>Eucalyptus rubida</i>	Candlebark
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus viminalis</i>	Ribbon Gum

### **Central Coast koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Angophora bakeri</i>	Narrow-leaved Apple

<i>Angophora costata</i>	Smooth-barked Apple
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Casuarina glauca</i>	Swamp Oak
<i>Corymbia eximia</i>	Yellow Bloodwood
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus acmenoides</i>	White Mahogany
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus beyeriana</i>	Beyer's Ironbark
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bosistoana</i>	Coast Grey Box
<i>Eucalyptus botryoides</i>	Bangalay
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus camfieldii</i>	Camfield's Stringybark
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus capitellata</i>	Brown Stringybark
<i>Eucalyptus carnea</i>	Thick-leaved Mahogany
<i>Eucalyptus consideniiana</i>	Yertchuk
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus deanei</i>	Mountain Blue Gum
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus glaucina</i>	Slaty Red Gum
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus grandis</i>	Flooded Gum
<i>Eucalyptus haemastoma</i>	Broad-leaved Scribbly Gum
<i>Eucalyptus imitans</i>	<i>Eucalyptus imitans</i>

<i>Eucalyptus largeana</i>	Craven Grey Box
<i>Eucalyptus longifolia</i>	Woollybutt
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus michaeliana</i>	Brittle Gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus oblonga</i>	Stringybark
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus parramattensis</i>	Parramatta Red Gum
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus propinqua</i>	Small-fruited Grey Gum
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus racemosa</i>	Narrow-leaved Scribbly Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus scias</i>	Large-fruited Red Mahogany
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus siderophloia</i>	Grey Ironbark
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus signata</i>	Scribbly Gum
<i>Eucalyptus sparsifolia</i>	Narrow-leaved Stringybark
<i>Eucalyptus squamosa</i>	Scaly Bark
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus umbra</i>	Bastard White Mahogany
<i>Eucalyptus viminalis</i>	Ribbon Gum

*Melaleuca quinquenervia* Broad-leaved Paperbark

*Syncarpia glomulifera* Turpentine

### **Darling Riverine Plains koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus coolabah</i>	Coolibah
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dwyeri</i>	Dwyer's Red Gum
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box
<i>Eucalyptus populnea</i>	Bimble Box, Poplar Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark

### **Far West koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus coolabah</i>	Coolibah

<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus intertexta</i>	Gum Coolibah
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box
<i>Eucalyptus populnea</i>	Bimble Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Geijera parviflora</i>	Wilga

#### **North Coast koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia henryi</i>	Large-leaved Spotted Gum
<i>Corymbia intermedia</i>	Pink Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus acmenoides</i>	White Mahogany
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus bancroftii</i>	Orange Gum
<i>Eucalyptus biturbinata</i>	Grey Gum
<i>Eucalyptus campanulata</i>	New England Blackbutt
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus carnea</i>	Thick-leaved Mahogany
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus eugenoides</i>	Narrow-leaved stringybark
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark

<i>Eucalyptus glaucina</i>	Slaty Red Gum
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus grandis</i>	Flooded Gum
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus largeana</i>	Craven Grey Box
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus placita</i>	Grey Ironbark
<i>Eucalyptus planchoniana</i>	Bastard Tallowwood
<i>Eucalyptus propinqua</i>	Small-fruited Grey Gum
<i>Eucalyptus psammitica</i>	Bastard White Mahogany
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus rummeryi</i>	Steel Box
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus scias</i>	Large-fruited Red Mahogany
<i>Eucalyptus seeana</i>	Narrow-leaved Red Gum
<i>Eucalyptus siderophloia</i>	Grey Ironbark
<i>Eucalyptus signata/Eucalyptus racemosa</i>	Scribbly Gum/Narrow-leaved Scribbly Gum
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus tindaliae</i>	Stringybark
<i>Eucalyptus umbra</i>	Bastard White Mahogany
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark

### **Northwest Slopes koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine



<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus caleyi</i>	Drooping Ironbark
<i>Eucalyptus caliginosa</i>	Broad-leaved Stringybark
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus canaliculata</i>	Large-fruited Grey Gum
<i>Eucalyptus chloroclada</i>	Dirty Gum
<i>Eucalyptus conica</i>	Fuzzy Box
<i>Eucalyptus coolabah</i>	Coolibah
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dalrympleana</i>	Mountain Gum
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus dwyeri</i>	Dwyer's Red Gum
<i>Eucalyptus exserta</i>	Peppermint
<i>Eucalyptus fibrosa</i>	Broad-leaved Red Ironbark
<i>Eucalyptus goniacalyx</i>	Bundy
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus mannifera</i>	Brittle Gum
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus parramattensis</i>	Parramatta Red Gum
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum
<i>Eucalyptus pilligaensis</i>	Narrow-leaved Grey Box

<i>Eucalyptus polyanthemos</i>	Red Box
<i>Eucalyptus populnea</i>	Bimble Box/Poplar Box
<i>Eucalyptus prava</i>	Orange Gum
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus quadrangulata</i>	White-topped Box
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus viminalis</i>	Ribbon Gum

### **Northern Tablelands koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Eucalyptus acaciiformis</i>	Wattle-leaved Peppermint
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus amplifolia</i>	Cabbage Gum
<i>Eucalyptus biturbinata</i>	Grey Gum
<i>Eucalyptus blakelyi</i>	Blakely's Red Gum
<i>Eucalyptus bridgesiana</i>	Apple Box
<i>Eucalyptus brunnea</i>	Mountain Blue Gum
<i>Eucalyptus caleyi</i>	Drooping Ironbark
<i>Eucalyptus caliginosa</i>	Broad-leaved Stringybark
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus campanulata</i>	New England Blackbutt
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus dalrympleana</i>	Mountain Gum
<i>Eucalyptus dealbata</i>	Tumbledown Red Gum
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus laevopinea</i>	Silver-top Stringybark
<i>Eucalyptus macrorhyncha</i>	Red Stringybark
<i>Eucalyptus melanophloia</i>	Silver-leaved Ironbark

<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus michaeliana</i>	Brittle Gum
<i>Eucalyptus microcorys</i>	Tallowwood
<i>Eucalyptus moluccana</i>	Grey Box
<i>Eucalyptus nicholii</i>	Narrow-leaved Black Peppermint
<i>Eucalyptus nobilis</i>	Forest Ribbon Gum
<i>Eucalyptus nova-anglica</i>	New England Peppermint
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus pauciflora</i>	White Sally, Snow Gum
<i>Eucalyptus prava</i>	Orange Gum
<i>Eucalyptus radiata</i>	Narrow leaved Peppermint
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus sideroxylon</i>	Mugga Ironbark
<i>Eucalyptus stellulata</i>	Black Sally
<i>Eucalyptus subvelutina</i>	Broad-leaved Apple
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus viminalis</i>	Ribbon Gum
<i>Eucalyptus williamsiana</i>	Eucalyptus williamsiana
<i>Eucalyptus youmanii</i>	Youman's Stringybark

### **Riverina koala management area**

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Callitris glaucophylla</i>	White Cypress Pine
<i>Casuarina cristata</i>	Belah
<i>Eucalyptus albens</i>	White Box
<i>Eucalyptus camaldulensis</i>	River Red Gum
<i>Eucalyptus intertexta</i>	Gum Coolibah
<i>Eucalyptus largiflorens</i>	Black Box
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Western Grey Box
<i>Eucalyptus populnea</i>	Bimble Box

### South Coast koala management area

<b>Scientific name</b>	<b>Common name(s)</b>
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Corymbia gummifera</i>	Red Bloodwood
<i>Corymbia maculata</i>	Spotted Gum
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus baueriana</i>	Blue Box
<i>Eucalyptus bosistoana</i>	Coast Grey Box
<i>Eucalyptus consideniiana</i>	Yertchuk
<i>Eucalyptus cypellocarpa</i>	Monkey Gum
<i>Eucalyptus elata</i>	River Peppermint
<i>Eucalyptus eugenioides</i>	Narrow-leaved Stringybark
<i>Eucalyptus fastigata</i>	Brown Barrel
<i>Eucalyptus globoidea</i>	White Stringybark
<i>Eucalyptus longifolia</i>	Woollybutt
<i>Eucalyptus maidenii</i>	Maiden's Blue Gum
<i>Eucalyptus muelleriana</i>	Yellow Stringybark
<i>Eucalyptus obliqua</i>	Messmate
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus sclerophylla</i>	Hard-leaved Scribbly Gum
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus tricarpa</i>	Mugga (Red) Ironbark
<i>Eucalyptus viminalis</i>	Ribbon Gum

## Schedule 4 Dictionary for Chapter 5

(section 5.5)

### abbreviations of agencies:

**C&NR (Vic)** means the Victorian Department of Conservation and Natural Resources.

**CaLM** means the NSW Department of Conservation and Land Management.

**DoP** means the NSW Department of Planning.

**DWR** means the NSW Department of Water Resources.

**EPA** means the NSW Environment Protection Authority.

**Forestry Commission** means the Forestry Commission of New South Wales.

**MDBC** means the Murray-Darling Basin Commission.

**MSB** means the NSW Maritime Services Board—Maritime Authority of NSW.

**NPWS** means the National Parks and Wildlife Service.

**NSW Agriculture** means the NSW Department of Agriculture.

**P&D (Vic)** means the Victorian Department of Planning and Development.

**PWD** means the NSW Public Works Department.

**RWC (Vic)** means the Rural Water Corporation of Victoria.

**bank** means a change of slope that defines the extent of the bed of the River Murray.

**bed** means the land which contains the River Murray, including that which is alternately inundated or left bare from a rise or fall in the supply of water, but does not include any land inundated only in time of flood.

**consent authority** means the Council for the local government area in which the proposed development is to be carried out.

**development** is defined in the Act.

### Note—

See also section 5.5(2).

The expression means, in relation to land—

- (a) the erection of a building on that land,
- (b) the carrying out of a work in, on, over or under that land,
- (c) the use of that land or of a building or work on that land, and
- (d) the subdivision of that land.

Land includes a bay, inlet, lagoon, lake or body of water, a river, stream or watercourse.

**flood liable land** means land identified on the map as flood liable land.

**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 industry 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 the 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.

**offensive 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 industry from existing or likely future development on other land in the locality), would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**offensive storage establishment** means any establishment where goods, materials or products are stored 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 the existing or likely future development on other land in the locality.

**potentially hazardous industry** means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality—

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

and includes a hazardous industry and the use of a hazardous storage establishment.

**potentially offensive industry** means an industry which, if it were to operate without employing any measures (including, for example, measures to isolate the industry from existing or likely future development on other land in the locality) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and the use of an offensive storage establishment.

**public authority** means a public or local authority constituted by or under any Act, a Government department or a statutory body representing the Crown, and includes a person exercising functions on behalf of that authority, Department or body and also includes a public or local authority constituted under any Act of the Parliament of the Commonwealth, Victoria or South Australia, a government department of the Commonwealth, Victoria or South Australia, a statutory body representing the Crown in right of the Commonwealth, Victoria or South Australia and a person exercising functions on behalf of any such authority, department or body.

**River Management Plan** means any development control plan, plan of management, study, strategy, guideline or the like, which has undergone a public participation process, which is consistent with the aims, objectives and principles of this Chapter and which is endorsed by the MDBC.

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

**the map** means the map marked “[Murray Regional Environmental Plan No 2—Riverine Land](#)” (consisting of an index map and sheets 1-19, 21, 23 and 25-42) deposited in the office of the Department of Planning.

**Vegetation Management Plan** means a plan which is prepared in accordance with guidelines issued by the DoP for such plans and which is approved by CaLM.

## Schedule 5 Sydney Harbour heritage items for Chapter 6

Schedule 6, definition of “heritage item”

### Note—

The word “State” in the column headed “Significance” identifies items listed on the State Heritage Register that have been assessed in a relevant heritage study as being of State heritage significance or are listed in a register kept under the [Heritage Act 1977](#), section 170.

Locality	Name of item	Address	Significance	Item no
Canada Bay	Newington College boat shed and grounds	Checkley Street, Abbotsford		1
Canada Bay	Abbotsford Jetty	Great North Road, Abbotsford		2
Canada Bay	Former Cabarita Wharf	Cabarita Park, Cabarita		3
Canada Bay	Sanders Marina	Cabarita Park, Cabarita		4

Canada Bay	Stone Wharf, Blackwall Point	11 Bortfield Drive, Chiswick		5
Canada Bay	Site of former swimming baths at Hen and Chicken Bay	Bayview Park, Concord		6
Canada Bay	Clovelly House boat shed	Drummoyne Avenue, Drummoyne		7
Canada Bay	Federation House boat shed	Drummoyne Avenue, Drummoyne		8
Canada Bay	Wharves/Reclaimed Land, access from Peppercorn Reserve and Salton Reserve	St Georges Crescent, Drummoyne		9
Canada Bay	Thompson Street Wharves	Thompson Street and Henley Marine Drive, Drummoyne		10
Canada Bay	Wolseley Street Wharf	Wolseley Street, Drummoyne		11
Canada Bay	Federation House boat shed only	87 Llewellyn Street, Rhodes		12
Canada Bay	Stone wharf	91 Llewellyn Street, Uhrs Point, Rhodes		13
Canada Bay	Stone retaining walls	Five Dock Bay		14
Canada Bay	Stone retaining walls	Hen and Chicken Bay		15
Hunters Hill	Hunters Hill Wharf and Waiting Shed	453 Ferry Street, Hunters Hill		16
Hunters Hill	Remains of bath	Boronia Park, Hunters Hill		17
Inner West	Urban Transit Authority Ferry Maintenance Depot	Alexander and Waterview Streets, Balmain	State	18
Inner West	Cove Street Wharf	Cove Street, Balmain		19
Inner West	Elliott Street Wharf	Elliott Street, Balmain		20
Inner West	Dawn Fraser Swimming Pool	Glassop Street, Balmain	State	144
Inner West	Waterview Wharf Workshops	37 Nicholson Street, Balmain	State	145
Inner West	Site of Rowntree's Floating Dock	Hart Street and The Avenue, Balmain		21



Inner West	Punch Street Wharf	Punch Street, Balmain	22
Inner West	Tidal pool	13 Simmons Street, Balmain	23
Inner West	Site and remains of former Morts Dock	Thames, Mort, College, McKell, Cameron and Yeend Streets, Balmain	State 24
Inner West	Site and remains of ferry wharf	Yeend Street, Balmain	25
Inner West	Remains of former Tasmanian Ferry Terminal	Yeend Street, Balmain	26
Inner West	Long Nose Point Wharf	Louisa Road, Birchgrove	27
Inner West	Boat sheds only	Louisa Road, opposite steps to Deloitte Avenue, Birchgrove	28
Inner West	Leichhardt Wharf	Leichhardt Park, Leichhardt	29
Inner West	Former Callan Park Hospital Wharf	Rozelle Hospital, Rozelle	30
Inner West	Stone retaining walls	Iron Cove	31
Ku-ring-gai	Remains of old Roseville Bridge	Babbage Road, Roseville	32
Ku-ring-gai	Site of Echo Point Farm, including slipway	Echo Point Park, Babbage Road, Roseville	33
Ku-ring-gai	Remains of Roseville Baths	99 Babbage Road, Roseville	34
Lane Cove	Electricity Tunnel	Foreshore of Manns Point Reserve, Greenwich	35
Lane Cove	Boat shed and slips	O'Connell and Albert Streets, Greenwich	36
Mosman	Stone wharf—Bradley's Head	National Park, Bradley's Head	37
North Sydney	Lavender Bay Ferry Wharf	Walker Street, Kirribilli	38
North Sydney	Brett Whiteley House and visual curtilage	1 Walker Street, Lavender Bay and the waters of Lavender Bay	State 39

North Sydney	Sydney Harbour Queen	Moored in Berrys Bay, Waverton (formerly moored west of Luna Park, Milsons Point)	40	
North Sydney	Site of Cavill's Baths	Foreshore of Lavender Bay	41	
North Sydney	Head of Shell Cove	Bogota Avenue, Cremorne Point and the waters of Shell Cove	42	
Northern Beaches	Grotto Point lighthouse and remains of former wharf	Grotto Point, Balgowlah	43	
Northern Beaches	Fairlight Pool	Lauderdale Avenue, Fairlight	44	
Northern Beaches	Bantry Bay Public Powder Magazine	Foreshores of Bantry Bay, Killarney Heights	45	
Northern Beaches	Flat Rock Landing Place	Killarney Drive, Killarney Heights	46	
Northern Beaches	Former Killarney picnic ground, including wharf	Garigal National Park, Mosman Rowing Club, Killarney Drive, Killarney Heights	47	
Northern Beaches	Remains of Manly Public Baths	East Esplanade, Manly	48	
Northern Beaches	Little Manly Cove Pool	Stuart Street, Manly	49	
Northern Beaches	Site and remains of Brightside cargo wharf	Stuart Street, Manly	50	
Northern Beaches	Site and remains of harbour side pool and steps	Stuart Street, Manly	51	
Northern Beaches	Manly Wharf	The Esplanade, Manly	State	52
Parramatta	Industrial Wharves	33 Grand Avenue, Camellia	53	
Parramatta	Former McDonald Farm Wharf	George Kendall Reserve, Ermington	54	
Parramatta	Wharf and reserve	George Kendall Reserve, Ermington	55	
Parramatta	Former Spurway Street Wharf	Spurway Street, Ermington	56	

Parramatta	Former Pennant Hills Wharf	Wharf Road, Ermington		57
Parramatta	Log ponds and wharves to timber yards	Bennelong Point, Homebush Bay		58
Parramatta	Newington Arms Depot Wharf	Newington Arms Depot, Silverwater		59
Parramatta	Shell Oil Refinery Wharf	Duck River		60
Ryde	Scots College boat shed	3 Delmar Parade, Gladesville		61
Ryde	Punt Road Wharf	Punt Road, Gladesville		62
Ryde	Former Gladesville Wharf	Wharf Road, Looking Glass Point, Gladesville		63
Ryde	Sydney Grammar School boat shed	88 Wharf Road, Gladesville		64
Ryde	Meadowbank Rail Bridge over Parramatta River	Main Northern railway, Meadowbank	State	65
Ryde	Private Wharf	Below Rothesay Avenue, Meadowbank		66
Ryde	Putney Wharf	Putney Parade, Putney		67
Ryde	Naval Refit Centre	Waterview Street, Putney	State	68
Ryde	Former Ryde Wharf	Parsonage and Belmore Streets, Ryde		69
Ryde	Former swimming baths	End of Regent Street and Osborne Avenue, Ryde		70
Ryde	Timber wharves	Both sides of Ryde Railway Bridge, Ryde		71
Ryde	Former Log Road and private wharf	Continuation of Cobham Street, Melrose Park, West Ryde		72
Sydney	Ferry wharves	Alfred Street, Circular Quay	State	73
Sydney	Site of Ithaca Road ferry wharf	Ithaca Road, Elizabeth Bay		74
Sydney	Walsh Bay Wharves Precinct	Hickson Road, Millers Point	State	75
Sydney	Pymont Bridge	Sydney	State	76

Sydney	Man O'War Steps	Farm Cove Crescent, Sydney	State	77
Sydney	Remains of the former Andrew (Boy) Charlton Pool	Mrs Macquarie's Road, Sydney		78
Sydney	Site of Robinson's Baths	Mrs Macquarie's Road, Sydney		79
Sydney	Former Woolloomooloo Deep Sea Wharves Nos 6, 7, 8, 9 and 11, Cargo Sheds at Cowper Wharf Road and Lincoln Crescent, Woolloomooloo, and the land and waterway between Wharf No 11 and the other wharves	Cowper Wharf Road and Lincoln Crescent, Woolloomooloo	State	80

	Garden Island Precinct—		
	(a) Former residences for overseers		
	(b) Building 37—rigging shed, including chapel		
	(c) Buildings 31 and 32—registry offices		
	(d) Building 88—battery shed		
	(e) Buildings 95 and 99—workshop and factory		
	(f) Building 89—naval stores		
	(g) Building 27—office building	Off Cowper Wharf Road, Garden Island	State
Sydney	(h) Buildings 16/17 and 18/19/ 20—residences		81
	(i) Building 98—core shop		
	(j) Building 25—boat shed		
	(k) Buildings 7 and 8—workshop and store		
	(l) Figurehead of ship “Windsor Castle”		
	(m) Figurehead of ship “Consuela”		
	(n) Former garden		
	(o) Former “Clarens” garden remains		
Willoughby	Remains of HC Press picnic ground and public baths	Cammeray Road, Castle Cove	82
Willoughby	Willis Road wharf	Willis Road, Castle Cove	83

Willoughby	Stone walls, steps and baths	213-217B Edinburgh Road, Castlecrag	84
Willoughby	Former Horsley's boat shed and sea wall, now a house	217B Edinburgh Road, Castlecrag	85
Willoughby	Remains of Municipal Baths, structures and access steps	241 Edinburgh Road, Castlecrag	86
Willoughby	Stone walls	297A Edinburgh Road, Castlecrag	87
Willoughby	Site and remains of early wharfage, now Castlecrag Marina	Rockley Street, Castlecrag	88
Willoughby	Sailors Bay boat shed	Clive Park, Northbridge	89
Willoughby	Site and remains of wharfage	Fig Tree Point, Hallstrom Close, Northbridge	90
Woollahra	Camp Cove tide gauge	Cliff Street, Camp Cove	91
Woollahra	Remains of Bath House and site of jetty	Darling Point Road, Darling Point	92
Woollahra	HMAS Rushcutter slipways	9 New Beach Road, Darling Point	93
Woollahra	Site of public wharf, now a new wharf	Bay Street, Double Bay	94
Woollahra	Gladswood House private jetty	11 Gladswood Gardens, Double Bay	95
Woollahra	Site of wharf	Wingadal Place, Point Piper	96
Woollahra	Chinese boat shed	20 Wolseley Road, Point Piper	97
Woollahra	Group of remains of wharf, baths and waterfront relics, including former Tivoli Pier and former Thorne's (or Claremont) Wharf	Bayview Hill Road, Rose Bay	98
Woollahra	Site of former Rose Bay Flying Boat Base	Lyne Park, Rose Bay	99
Woollahra	Site of public baths	Lyne Park, Rose Bay	100
Woollahra	Remains of Western Rose Bay ferry wharf	New South Head Road, Rose Bay	101

Woollahra	West Parsley Bay obelisk	65 Fitzwilliam Road, Vaucluse		102
Woollahra	Remains of Vaucluse Point ferry wharf	83 Fitzwilliam Street, Vaucluse		103
Woollahra	Nielsen Park and Hermitage Foreshore Reserve	Greycliffe Avenue, Vaucluse	State	104
Woollahra	Former Nielsen Wharf remains	Steel Point, Vaucluse		105
Woollahra	East Parsley Bay obelisk	Between properties 36A and 38, The Crescent, Vaucluse		106
Woollahra	Parsley Bay Ferry Wharf	The Crescent, Vaucluse		107
Woollahra	Hermit Bay Wharf, slipway and landing	Vaucluse Road, Vaucluse		108
Woollahra	Vaucluse Baths	68 Wentworth Road, Vaucluse		109
Woollahra	Site of Village Point Wharf (Kutti Beach Ferry Wharf)	Wharf Road, Vaucluse		110
Woollahra	Watsons Bay Pool	Marine Parade, Watsons Bay		111
Woollahra	Pilot Station	Marine Parade and Salisbury Street, Watsons Bay		112
Woollahra	Remains of old Watsons Bay Pool	Marine Parade and Salisbury Street, Watsons Bay		113
Woollahra	Ferry Pier	Military Road, Watsons Bay		114
Woollahra	Green Point obelisk	Off Pacific Street, Watsons Bay		115

—	Goat Island, including former harbour master's residence, pathway from magazine precinct to water police station precinct, former ordinance magazine, former laboratory and original cooperage, former cooperage, wall gate and sentry post, entry to magazine area, former barracks, former kitchen, Andersons Couch, lime kiln, Barney's Cut, former water police station	Sydney Harbour	State	116
—	Shark Island	Sydney Harbour		117
—	Clark Island	Sydney Harbour		118
—	Cockatoo Island		State	119
—	Spectacle Island		State	120
—	Snapper Island			121
—	Rodd Island	Iron Cove	State	122
—	Fort Denison, Sydney Harbour	Sydney Harbour	State	123
—	Sydney Harbour Bridge, including road and rail approaches and viaducts	Port Jackson	State	124
—	Glebe Island Bridge, including abutments	Blackwattle Bay	State	125
—	The Spit Bridge	Spit Road, Balgowlah/Mosman	State	126
—	Iron Cove Bridge	Iron Cove		127
—	Gladesville Bridge, including abutments		State	128
—	Ryde Bridge	Church Street, Ryde to Concord Road, Rhodes		129
—	Navigation light tower—western channel (Georges Head)	Sydney Harbour		130



—	Navigation light tower—eastern channel (Bottle and Glass Rocks)	Sydney Harbour	131
—	Navigation light tower	Off Shark Island, Sydney Harbour	132
—	Wreck of “Itata” and wrecks of other unnamed vessels	Salt Pan Creek, Middle Harbour	133
—	Wreck of Maritime Services Board Hopper Barge	Foreshores of Berrys Bay, Sydney Harbour	134
—	Wreck of “Catherine Adamson”	Old Man’s Hat, North Harbour, Sydney Harbour	135
—	Wreck of “Centennial”	Taylor’s Bay, Sydney Harbour	136
—	Wreck of “Centurion”	Cannae Point, North Head, Sydney Harbour	137
—	Wreck of “Currajong”	Off Bradley’s Head, Sydney Harbour	138
—	Wreck of “Edward Lombe”	Middle Harbour	139
—	Wreck of “Fame”	Sow and Pigs Shoal, Sydney Harbour	140
—	Wreck of Hopper Barge	150m east of Clark Island	141
—	Balmain to Greenwich Tunnel, including docking facilities and service buildings	Under harbour, from Long Nose Point, Balmain to Manns Point, Greenwich, State	142
—	Searles Monument	The Brothers, off Blackwall Point, Henley, Parramatta River, State	143

## Schedule 6 Dictionary for Chapter 6

section 6.2

**Aboriginal place of heritage significance** means—

- (a) an area of land that is the site of 1 or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people, being an area that may, but need not, include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits,

scarred and sacred trees and sharpening grooves, or

- (b) an area of land that is a natural Aboriginal sacred site or other sacred feature, being an area that includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance, or
- (c) a place described as an Aboriginal place of heritage significance in an inventory kept by the Department, including an inventory kept by the Department under *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* before its repeal.

**above-water boat lift** means a device used for lifting or steering a vessel out of water to store the vessel above water.

**aid to navigation** means a buoy, sign, light or other structure, whether located wholly on land, wholly on the zoned waterway or partly on land and partly on the zoned waterway, that is designed to assist the safe and efficient movement of vessels on the zoned waterway.

**appropriate authority**, for Part 6.3, Division 5—see section 6.44.

**aquatic ecology** means the interaction between organisms and the biotic and abiotic components of a waterway.

**aquatic reserve** has the same meaning as in the *Marine Estate Management Act 2014*.

**aviation facility** means an area of the zoned waterway set aside, or a structure provided, for the purposes of aircraft landing or taking off.

**boat launching ramp** means a structure, designed primarily for the launching of trailer-borne recreational vessels, that is generally available for public use, and includes associated car parking facilities.

**boat lift** means a device used for lifting or steering a vessel out of water, but does not include an above-water boat lift or a device that forms part of a boat building and repair facility or a marina.

**boat storage facility** includes—

- (a) a marina, and
- (b) a boat shed, and
- (c) a floating boat platform, and
- (d) a boat building and repair facility that includes the storage of boats.

**commercial port facility** means a structure—

- (a) used in connection with the carrying of goods or persons by water from 1 port to another for business or commercial purposes, and
- (b) with a direct structural connection between the foreshore and the zoned waterway.

**demolish**, in relation to an item, means wholly or partly destroy, dismantle or deface the item.

**dredging** means the removal of material from the sea, harbour bed or bed of a river for the purposes of constructing a new or deeper navigational area or channel or reopening a discontinued navigational area or channel, but does not include intertidal dredging or maintenance dredging.

**ecological community** has the same meaning as in the [Biodiversity Conservation Act 2016](#).

**floating boat platform** means a portable floating platform constructed from lightweight materials and secured to a mooring pen or a private landing facility that is used to store, above the water line, vessels that are not more than 6m in length.

**flood liable land**, for Part 6.2—see section 6.5.

**flora and fauna enclosure** means a net or other structure used for the purposes of protecting or encouraging the growth of flora and fauna, including a structure used for the observation of flora and fauna or for the maintenance of the net or other structure.

**foreshore** includes land with a water frontage and land that is separated from the waterfront by a public reserve, road or open space.

**Foreshores and Waterways Area** means the area identified as the Foreshores and Waterways Area on the [Foreshores and Waterways Area Map](#).

**Foreshores and Waterways Area Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Foreshores and Waterways Area Map](#).

**general restoration works** means works carried out for the purposes of restoring or enhancing the natural values of a foreshore or waterway.

**Georges River Catchment** means the water catchment identified as the Georges River Catchment on the [Georges River Catchment Map](#).

**Georges River Catchment Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Georges River Catchment Map](#).

**Hawkesbury-Nepean Catchment** means the water catchment identified as the Hawkesbury-Nepean Catchment on the [Hawkesbury-Nepean Catchment Map](#).

**Hawkesbury-Nepean Catchment Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Hawkesbury-Nepean Catchment Map](#).

**Hawkesbury-Nepean conservation area sub-catchment** means the following sub-catchments identified on the [Hawkesbury-Nepean Catchment Map](#)—

- (a) the Colo River sub-catchment,
- (b) the Glenbrook and Erskine Creek sub-catchment,
- (c) the Grose River sub-catchment,
- (d) the Macdonald River sub-catchment,
- (e) the Webbs Creek sub-catchment.

**heritage development**, for Part 6.4—see section 6.52.

**heritage item** means—

- (a) a building, work, archaeological site or other site or place described in Schedule 5 and identified on the [Heritage Map](#), and
- (b) an Aboriginal place of heritage significance.

**Heritage Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Heritage Map](#).

**houseboat** means a vessel or structure that floats on, or is fixed in, the zoned waterway and is used for the purposes of providing permanent residential accommodation.

**intertidal dredging** means the removal of material from the sea, harbour bed or bed of a river in the intertidal zone, but does not include maintenance dredging.

**intertidal zone** means the area between—

- (a) the zero tide, namely the water mark corresponding to a tide measuring zero on the Fort Denison Tide Gauge, or -0.925m Australian Height Datum, and
- (b) the highest astronomical tide, namely the water mark corresponding to a tide measuring 2.1m above zero on the Fort Denison Tide Gauge, or 1.175m Australian Height Datum.

**local government area** means an area within the meaning of the [Local Government Act 1993](#).

**maintenance dredging** means removal of material from the sea, harbour bed or bed of a river for the purposes of maintaining the previously established harbour or river depth.

**master plan**, for Part 6.3, Division 5—see section 6.44.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore and is taken, for Part 6.3, to be 1.48m above zero on the Fort Denison Tide Gauge or 0.555m Australian Height Datum.

**naval activities** means activities carried out by or on behalf of the Royal Australian Navy within the meaning of the [Defence Act 1903](#) of the Commonwealth, section 18.

**NorBE Guideline**, for Part 6.5—see section 6.59.

**NorBE Tool**, for Part 6.5—see section 6.59.

**private landing facility** means a structure, including a wharf, jetty or pontoon, that is used to enable passengers to embark or disembark a vessel or to load or unload goods and is not generally available for public use, but does not include a facility associated with a marina.

**private landing steps** means steps that are used for launching and retrieving vessels and are not generally available for public use, but does not include private landing facilities or a facility associated with a marina.

**private marina** means an apparatus or structure located on or in a waterway that—

- (a) is used for restraining 2 or more vessels, and
- (b) is privately owned and not generally available for public use.

**private swimming enclosure** means a net or other structure, other than a public water recreational facility, that is placed in the zoned waterway for the purposes of providing a protected swimming area and is not generally available for public use.

**public boardwalk** means a decked structure, supported by piers or piles, providing public pedestrian access extending over or beyond the intertidal zone, but does not include a structure intended only to provide direct access to a vessel.

**public water recreational facility** means a waterfront structure primarily used for public recreation and may include a pier, wharf or boat launching ramp.

**public water transport facility** means a structure used primarily in connection with transporting the public by water.

**reclamation work** means work involving—

- (a) the filling or draining of submerged land for the purposes of reclaiming the land, or
- (b) the filling of submerged land for the purposes of supporting a building or structure, including a bridge, being erected over the land.

**recreational or club facility** means a building or place used exclusively for sporting or leisure activities, whether operated for gain or not.

**regulated catchment** means the following—

- (a) the Sydney Drinking Water Catchment,
- (b) the Sydney Harbour Catchment,
- (c) the Georges River Catchment,
- (d) the Hawkesbury-Nepean Catchment.

**Regulatory Authority**, for Part 6.5—see section 6.59.

**riparian vegetation**, for Part 6.2—see section 6.5.

**Riverine Scenic Area** means an area identified on the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Hawkesbury-Nepean Riverine Scenic Area Map](#) as—

- (a) an area of local significance, or
- (b) an area of regional significance, or
- (c) an area of significance beyond the region.

**Rocky Foreshores and Significant Seagrasses Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Rocky Foreshores and Significant Seagrasses Map](#).

**seabed clearance** means the distance to the seabed from the underside of a floating boat platform.

**seagrass** has the same meaning as in the [Fisheries Management Act 1994](#), section 205.

**single mooring** means an apparatus or structure located on or in the zoned waterway and designed, constructed or used for restraining a single vessel, but does not include a mooring pen or a facility associated with a marina.

**skid** means an inclined ramp used for the manual launching of small craft, but does not include a slipway.

**slipway** means a structure, usually in the form of 2 supported parallel rails on which a wheeled cradle is run, to draw a vessel out of the water for maintenance and repair, other than a structure that forms part of a boat building and repair facility or a marina.

**Special Purposes (Marinas and Boat Building and Repair Facilities) Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Special Purposes \(Marinas and Boat Building and Repair Facilities\) Map](#).

**Standard Instrument** means the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**strategic foreshore site**, for Part 6.3, Division 5—see section 6.44.

**Strategic Foreshore Sites Map**, for Part 6.3, Division 5—see section 6.44.

**Sydney Drinking Water Catchment** or **Sydney drinking water catchment** means the water catchment declared by section 6.60.

**Sydney Harbour Catchment** means the water catchment identified as the Sydney Harbour Catchment on the [Sydney Harbour Catchment Map](#).

**Sydney Harbour Catchment Map** means the [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 Sydney Harbour Catchment Map](#).

**tourist facility** means a building or place, including a hotel or motel but not including a caravan park, that is used by tourists or holiday-makers for the purposes of holiday accommodation, sport or recreation, and includes—

- (a) shops attached to or incorporated within the building or located at the place, and
- (b) other facilities serving the needs of tourists and holiday-makers using the building or place.

**TfNSW** means Transport for NSW constituted under the [Transport Administration Act 1988](#).

**view** includes a night view.

**water-based restaurant and entertainment facility** means a vessel or structure that—

- (a) floats on, or is fixed in, the zoned waterway, and
- (b) is used as a club or restaurant or for entertainment on a commercial basis, and

(c) has a direct structural connection between the foreshore and the zoned waterway.

**waterfront access stairs** means stairs or a ramp used for pedestrian access to the foreshore, but does not include stairs or a ramp used only for launching vessels or for providing direct access to a vessel on the zoned waterway.

**zoned waterway** means the part of the Foreshores and Waterways Area in Zone 1, 2, 3, 4, 5, 6, 7, 8 or 9.

## **Schedules 7-14 (Repealed)**