

# State Environmental Planning Policy (Precincts—Regional) 2021

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New South Wales

## Status Information

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# State Environmental Planning Policy (Precincts—Regional) 2021



New South Wales

## Contents

<b>Chapter 1 Preliminary</b> .....	14
1.1 Name of Policy .....	14
1.2 Commencement .....	14
1.3 Definitions .....	14
1.4 Transferred provisions .....	14
<b>Chapter 2 State significant precincts</b> .....	15
<b>Part 2.1 Preliminary</b> .....	15
2.1 Aims of Chapter .....	15
2.2 Application of Policy—transitional Part 3A projects .....	15
2.3 Definitions and key concepts .....	15
2.4 Maps .....	16
2.5 Land to which Chapter applies .....	16
2.6 Relationship to other environmental planning instruments .....	16
2.6A Savings .....	17
<b>Part 2.2 State significant precincts</b> .....	17
2.7 State significant precincts .....	17
2.8 Guidelines for proposals for State significant precinct listing .....	17
<b>Chapter 3 Activation Precincts</b> .....	17
<b>Part 3.1 Preliminary</b> .....	17

3.1 Aims of Chapter.....	17
3.2 Definitions .....	17
3.3 Land to which Chapter applies .....	19
3.4 Relationship with other environmental planning instruments .....	19
3.5 Maps.....	19
3.5A Savings.....	19
<b>Part 3.2 Master plans and delivery plans .....</b>	<b>20</b>
3.6 Master plans for Activation Precincts.....	20
3.7 Delivery plans for Activation Precincts .....	20
3.8 Consent authority to consider master plans and delivery plans.....	21
<b>Part 3.3 Activation Precinct certificates .....</b>	<b>21</b>
<b>Division 1 General .....</b>	<b>21</b>
3.9 Applications for Activation Precinct certificates.....	21
3.10 Determination of applications for Activation Precinct certificates .....	22
3.11 Activation Precinct certificates for complying development involving potentially hazardous industry .....	23
3.12 Duration of Activation Precinct certificates.....	23
3.12A Requirement for Activation Precinct certificate for development consent.....	24
<b>Division 2 Consultation for certain development.....</b>	<b>24</b>
3.13 Development near electricity transmission and distribution networks .....	24
3.14 Development in pipeline areas .....	24
3.15 Development in rail corridors .....	25
3.16 Consultation procedure .....	26
<b>Part 3.4 Complying development .....</b>	<b>26</b>
3.17 Application of Codes SEPP.....	26
3.18 Complying development.....	26
3.19 General requirements for complying development .....	27
3.20 Complying development in environmentally sensitive areas.....	28
3.21 Complying development certificate conditions.....	28
<b>Part 3.5 Miscellaneous .....</b>	<b>29</b>

3.22 Thermal energy from waste development.....	29
<b>Chapter 4 Kosciuszko Alpine Region.....</b>	<b>29</b>
<b>Part 4.1 Preliminary.....</b>	<b>29</b>
4.1 Aim and objectives of Chapter.....	29
4.2 Land to which Chapter applies .....	30
4.3 Definitions .....	31
4.4 Consent authority.....	32
4.5 Maps.....	32
4.6 Application of other environmental planning instruments.....	33
<b>Part 4.2 Permitted or prohibited development.....</b>	<b>33</b>
4.7 Land Use Table .....	33
4.8 Subdivision .....	33
4.9 Demolition .....	34
4.10 Temporary use of land .....	34
<b>Land Use Table.....</b>	<b>34</b>
Blue Cow Terminal .....	0
Bullocks Flat Terminal .....	0
Charlotte Pass Alpine Resort.....	0
Creel Bay Alpine Accommodation.....	0
Kosciuszko Tourist Park Alpine Accommodation.....	0
Mount Selwyn Alpine Resort .....	0
Perisher Range Alpine Resort.....	0
Ski Rider Alpine Accommodation .....	0
Sponars Chalet Alpine Accommodation .....	0
Thredbo Alpine Resort .....	0
Thredbo Ranger Station Alpine Accommodation .....	0
<b>Part 4.3 Exempt and complying development.....</b>	<b>39</b>
4.11 Requirements for exempt and complying development.....	39
4.12 Requirements for exempt development .....	41
4.13 Requirements for complying development.....	42

<b>Part 4.4 Other development controls</b> .....	42
4.14 Development by Crown, public authorities or Snowy Hydro.....	42
4.15 Development on land on Kosciuszko Road and Alpine Way.....	43
4.16 Development near Kangaroo Ridgeline.....	43
4.17 Classified roads.....	43
4.18 Bush fire hazard reduction.....	44
4.19 Public utility infrastructure.....	44
4.20 Conversion of fire alarms.....	45
4.21 Heritage conservation.....	45
4.22 Conservation incentives.....	47
4.23 Eco-tourist facilities.....	47
4.24 Flood planning.....	49
4.25 Earthworks.....	50
<b>Part 4.5 Development assessment and consent</b> .....	51
4.26 Master plans.....	51
4.27 Consultation with National Parks and Wildlife Service.....	51
4.28 Consideration of master plans and other documents.....	52
4.29 Consideration of environmental, geotechnical and other matters.....	52
4.30 Kosciuszko National Park Plan of Management.....	53
<b>Part 4.6 Miscellaneous</b> .....	53
4.31 Savings.....	53
<b>Chapter 5 Gosford city centre</b> .....	54
<b>Part 5.1 Preliminary</b> .....	54
Note.....	54
5.1 Aims of Chapter.....	54
5.2 Land to which Chapter applies.....	55
5.3 Definitions.....	55
5.4 Notes.....	55
5.5 Consent authority.....	55
5.6 Maps.....	55
5.7 Repeal of planning instruments applying to land.....	56

5.8 Savings provision relating to development applications.....	56
5.9 Relationship to other environmental planning instruments.....	56
5.10 Suspension of covenants, agreements and instruments.....	57
<b>Part 5.2 Permitted or prohibited development.....</b>	<b>58</b>
5.11 Land use zones.....	58
5.12 Zoning of land to which Chapter applies.....	58
5.13 Zone objectives and Land Use Table.....	58
5.14 Unzoned land.....	59
5.15 Additional permitted uses for particular land.....	59
5.16 Subdivision—consent requirements.....	59
5.17 Demolition requires development consent.....	60
5.18 Temporary use of land.....	60
<b>Part 5.3 Land Use Table.....</b>	<b>61</b>
Note.....	61
Zone R1 General Residential.....	61
Zone B3 Commercial Core.....	62
Zone B4 Mixed Use.....	63
Zone B6 Enterprise Corridor.....	65
Zone SP2 Infrastructure.....	66
Zone RE1 Public Recreation.....	66
Zone W2 Recreational Waterways.....	67
<b>Part 5.4 Exempt and complying development.....</b>	<b>68</b>
5.19 Exempt development.....	68
5.20 Complying development.....	69
5.21 Environmentally sensitive areas excluded.....	69
<b>Part 5.5 Principal development standards.....</b>	<b>70</b>
5.22 Minimum subdivision lot size.....	70
5.23 Minimum subdivision lot size for community title schemes.....	71
5.24 Minimum subdivision lot size for strata plan schemes in certain rural, residential, recreation and environment protection zones.....	71
5.25 Height of buildings.....	72

5.26 Floor space ratio .....	72
5.27 Calculation of floor space ratio and site area .....	73
5.28 Exceptions to development standards .....	75
<b>Part 5.6 Miscellaneous provisions</b> .....	<b>76</b>
5.29 Relevant acquisition authority .....	76
5.30 Classification and reclassification of public land.....	77
5.31 Development near zone boundaries.....	78
5.32 Controls relating to miscellaneous permissible uses .....	79
5.33 Architectural roof features.....	80
5.34 Development below mean high water mark.....	81
5.35 Conversion of fire alarms.....	81
5.36 Heritage conservation .....	82
5.37 Bush fire hazard reduction.....	85
5.38 Infrastructure development and use of existing buildings of the Crown.....	85
<b>Part 5.7 Additional local provisions—generally</b> .....	<b>85</b>
5.39 Acid sulfate soils.....	85
5.40 Flood planning .....	87
5.41 Floodplain risk management .....	87
5.42 Location of sex services premises .....	88
<b>Part 5.8 Gosford City Centre</b> .....	<b>89</b>
5.43 Minimum building street frontage in Zone B6 .....	89
5.44 Building height on Mann Street .....	89
5.45 Design excellence.....	89
5.46 Exceptions to height and floor space in Zones B3, B4 and B6.....	90
5.47 Car parking in Zones B3 and B4 .....	92
5.48 Active street frontages .....	93
5.49 Non-residential ground and first floor of buildings in Zone B3.....	93
5.50 Converting serviced apartments to residential flat buildings .....	93
5.51 Residential flat buildings in Zone B6 .....	94
5.52 Solar access to key public open spaces.....	94
5.53 Key vistas and view corridors .....	94
5.54 Community infrastructure .....	95

5.55 Floor space ratio in Zone R1 .....	95
<b>Appendix 1 State significant precinct—Kings Forest site</b> .....	<b>96</b>
1 Definitions .....	96
3 Application of Appendix .....	96
4 Land use zones and objectives .....	97
5 Zone 2 (c) .....	97
6 Zones 7 (a) and 7 (l) .....	97
7 Ecological buffers .....	98
8 Agricultural buffers .....	99
9 Complying development .....	99
10 Relationship with other environmental planning instruments .....	100
11 Infrastructure development and the use of existing buildings of the Crown .....	100
<b>Appendix 2 State significant precinct—Tomago Industrial site</b> .....	<b>100</b>
<b>Part 1 Preliminary</b> .....	<b>100</b>
1 Land to which Appendix applies .....	100
2 Interpretation .....	100
3 Consent authority .....	101
<b>Part 3 Provisions applying to development within Tomago Industrial site</b>	
.....	101
6 Application of Part .....	101
7 Land use zones .....	101
8 Zone IN1 General Industrial .....	101
9 Zone SP2 Infrastructure .....	102
10 Zone E2 Environmental Conservation .....	103
11 Public utility undertakings .....	103
12 Subdivision—consent requirements .....	103
12A Demolition requires development consent .....	103
12B Temporary use of land .....	104
<b>Part 4 Miscellaneous</b> .....	<b>104</b>
13 Relationship with other environmental planning instruments .....	104
14 Notice of development applications to be given to councils .....	104



16 Suspension of covenants, agreements and instruments .....	105
16A Conversion of fire alarms .....	105
17 Infrastructure development and use of existing buildings of the Crown.....	106
<b>Appendix 3 State significant precinct—Sandon Point site</b> .....	<b>106</b>
<b>Part 1 Preliminary</b> .....	<b>106</b>
1 Land to which Appendix applies .....	106
2 Interpretation .....	106
3 Consent authority .....	107
5 Relationship with other environmental planning instruments .....	107
<b>Part 2 Provisions relating to development in Sandon Point site</b> .....	<b>107</b>
6 Application of Part .....	107
7 Land use zones.....	107
8 Objectives of land use zones to be taken into account.....	108
9 Zone R2 Low Density Residential.....	108
10 Zone R3 Medium Density Residential .....	108
11 Zone E2 Environmental Conservation .....	109
12 Prohibited development .....	110
13 Subdivision—consent requirements .....	110
13A Demolition requires development consent.....	110
13B Temporary use of land .....	110
14 Height and floor space ratio restrictions.....	111
15 Development in proximity to a rail corridor .....	111
16 Controls relating to miscellaneous uses .....	112
17 Exceptions to development standards—transitional Part 3A projects.....	112
18 Exceptions to development standards—other development .....	113
19 Development within the coastal zone .....	114
20 Architectural roof features.....	116
20A Conversion of fire alarms .....	117
21 Preservation of trees or vegetation .....	117
22 Heritage conservation .....	119
23 Public utility infrastructure .....	119
24 Infrastructure development and use of existing buildings of the Crown.....	120

25 Relevant acquisition authority .....	120
26 Suspension of covenants, agreements and instruments .....	121
<b>Appendix 4 State significant precinct—Rise Bilambil Heights site .....</b>	<b>122</b>
<b>Part 1 Preliminary .....</b>	<b>122</b>
1 Land to which Appendix applies .....	122
2 Interpretation .....	122
3 Consent authority .....	122
5 Relationship with other environmental planning instruments .....	122
<b>Part 2 Provisions relating to development in Rise Bilambil Heights site</b>	
.....	123
6 Land use zones.....	123
7 Objectives of land use zones to be taken into account.....	123
8 Zone R1 General Residential .....	123
9 Zone B4 Mixed Use .....	124
10 Zone E2 Environmental Conservation .....	124
11 Subdivision—consent requirements .....	125
11A Demolition requires development consent.....	125
11B Temporary use of land.....	125
12 Height of buildings .....	126
13 Exceptions to development standards .....	126
14 Controls relating to miscellaneous uses .....	128
15 Arrangements for designated State public infrastructure.....	128
16 Public utility infrastructure .....	129
16A Conversion of fire alarms .....	129
17 Infrastructure development and use of existing buildings of the Crown.....	130
18 Relevant acquisition authority .....	130
19 Suspension of covenants, agreements and instruments .....	131
<b>Appendix 5 State significant precinct—Calderwood site .....</b>	<b>132</b>
<b>Part 1 Preliminary .....</b>	<b>132</b>
1 Land to which Appendix applies .....	132
2 Interpretation .....	132

3 Consent authority .....	134
4 Savings .....	134
5 Relationship with other environmental planning instruments .....	134
<b>Part 2 Provisions relating to development in Calderwood site.....</b>	<b>135</b>
6 Application of Part .....	135
7 Land use zones.....	135
8 Objectives of land use zones to be taken into account.....	135
9 Zone RU2 Rural Landscape.....	135
10 Zone R1 General Residential .....	136
11 Zone R5 Large Lot Residential .....	137
12 Zone B4 Mixed Use.....	138
13 Zone RE1 Public Recreation.....	138
14 Zone E2 Environmental Conservation .....	139
15 Zone E3 Environmental Management.....	140
16 Prohibited development .....	140
17 Subdivision—consent requirements .....	140
17A Demolition requires development consent.....	141
18 Minimum subdivision lot size.....	141
19 Subdivision certificates.....	141
20 Height restrictions .....	142
21 Kiosks .....	142
22 Exceptions to development standards—transitional Part 3A projects.....	142
23 Exceptions to development standards—other development .....	142
24 Conversion of fire alarms.....	143
25 Bush fire hazard reduction.....	144
26 Flood planning .....	144
27 Heritage conservation .....	145
28 Public utility infrastructure .....	147
29 Development near zone boundaries.....	147
30 (Repealed) .....	148
31 Infrastructure development and use of existing buildings of the Crown.....	148
32 Temporary use of land .....	148
33 Interim land use .....	149

## **Appendix 6 State significant precinct—Southern Highlands Regional Shooting Complex site**

.....	150
<b>Part 1 Preliminary</b> .....	150
1 Land to which Appendix applies .....	150
2 Interpretation .....	150
3 Consent authority .....	150
5 Relationship with other environmental planning instruments .....	150
<b>Part 2 Provisions relating to development within Southern Highlands Regional Shooting Complex site</b>	
.....	151
6 Application of Part .....	151
7 Land use zones .....	151
8 Objectives of land use zones to be taken into account.....	151
9 Zone SP1 Special Activities.....	151
10 Zone E2 Environmental Conservation .....	152
11 Prohibited development .....	152
12 Infrastructure development and the use of existing buildings of the Crown .....	152
13 Height of buildings .....	153
14 Exceptions to development standards—transitional Part 3A projects.....	153
15 Exceptions to development standards—other development .....	153
16 Bush fire hazard reduction.....	154
17 Subdivision—consent requirements .....	154
18 Demolition requires development consent .....	154
19 Temporary use of land .....	155
20 Conversion of fire alarms.....	155
<b>Schedule 1 Parkes Activation Precinct</b> .....	156
<b>Schedule 1A Wagga Wagga Activation Precinct</b> .....	161
<b>Schedule 1B Moree Activation Precinct</b> .....	171
<b>Schedule 1C Exempt development—Chapter 3</b> .....	178

<b>Schedule 1D Snowy Mountains Activation Precinct</b> .....	182
<b>Schedule 1E Complying development—Chapter 3</b> .....	191
<b>Schedule 2 Exempt development—Chapter 4</b> .....	200
<b>Schedule 3 Complying development—Chapter 4</b> .....	217
<b>Schedule 4 Heritage items—Chapter 4</b> .....	221
<b>Schedule 4A Dictionary—Chapter 4</b> .....	222
<b>Schedule 5 Additional permitted uses—Chapter 5</b> .....	224
<b>Schedule 6 Exempt development—Chapter 5</b> .....	225
<b>Schedule 7 Complying development—Chapter 5</b> .....	226
<b>Schedule 8 Classification and reclassification of public land—Chapter 5</b> .....	226
<b>Schedule 9 Environmental heritage—Chapter 5</b> .....	227
<b>Schedule 10 Dictionary for Chapter 5</b> .....	230
<b>Schedule 11 (Repealed)</b> .....	274

# State Environmental Planning Policy (Precincts—Regional) 2021



New South Wales

## Chapter 1 Preliminary

### 1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Precincts—Regional) 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 State significant precincts

### Part 2.1 Preliminary

#### 2.1 Aims of Chapter

The aims of this Chapter are as follows—

- (a) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State,
- (b) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes.

#### 2.2 Application of Policy—transitional Part 3A projects

- (1) On the repeal of Part 3A of the Act, this Chapter is subject to Schedule 6A to the Act.

**Note.**

Schedule 6A of the Act sets out those projects which will continue as Part 3A projects (**transitional Part 3A projects**) and revokes the declaration of any other Part 3A project.

- (2) The repeal of clauses 6–6C and Schedules 1, 2 and 5 of this Chapter, and the other amendments made to this Chapter, by the *State Environmental Planning Policy (State and Regional Development) 2011* do not affect any of the following—
  - (a) the declaration under this Chapter of a project as a project or a critical infrastructure project under Part 3A, if that project is a transitional Part 3A project,
  - (b) any certificate in force under clause 6C immediately before that repeal.
- (3) Particular development is not a transitional Part 3A project if—
  - (a) another provision of this Chapter or a provision of another environmental planning instrument, whether made before or after this Chapter takes effect, provides that the particular development is exempt or complying development, and
  - (c) the particular development is not carried out as part of or in conjunction with other development that is a transitional Part 3A project.

#### 2.3 Definitions and key concepts

- (1) In this Chapter—

**coastal lake** means a body of water identified in Schedule 1 to *State Environmental Planning Policy (Coastal Management) 2018*.

**coastal zone** has the same meaning as in the *Coastal Management Act 2016*.

**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 and expressions used in this Chapter have the same meaning as they have in Schedule 6A to the Act.
- (3) A reference to this Chapter includes a reference to an Appendix made under this Chapter.

## **2.4 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 Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this 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.
- (5) A map referred to in an Appendix made under this Chapter is taken to be a map adopted by this Chapter.

## **2.5 Land to which Chapter applies**

This Chapter applies to the State.

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

Subject to section 74(1) of the Act, 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.

### 2.6A Savings

A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.

## Part 2.2 State significant precincts

### 2.7 State significant precincts

- (1) Each Appendix made under this Chapter describes a State significant precinct.
- (2) The provisions in an Appendix made under this Chapter relating to the carrying out of development on a State significant precinct have effect.

### 2.8 Guidelines for proposals for State significant precinct listing

- (1) The Minister may publish guidelines for proposals to amend an Appendix made under this Chapter.
- (2) This section does not preclude an amendment of an Appendix made under this Chapter without compliance with those guidelines.

## Chapter 3 Activation Precincts

### Part 3.1 Preliminary

#### 3.1 Aims of Chapter

The aim of this Chapter is to identify Activation Precincts in order to—

- (a) promote economic development, industry investment and innovation and to create employment in those Precincts, and
- (b) facilitate strategic and efficient development of land and infrastructure in those Precincts, and
- (c) protect and enhance land in those Precincts that has natural and cultural heritage value.

#### 3.2 Definitions

- (1) In this Chapter—

**Activation Precinct** means land declared to be an Activation Precinct in a Schedule made under this Chapter.

**Blue Book** has the same meaning as in *State Environmental Planning Policy*

*(Transport and Infrastructure) 2021*, Chapter 2.

**Codes SEPP** means *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**delivery plan** for an Activation Precinct means a delivery plan for the Precinct that is approved by the Planning Secretary under section 3.7.

**Development Corporation** means the Regional Growth NSW Development Corporation constituted by the *Growth Centres (Development Corporations) Act 1974*.

**master plan** for an Activation Precinct means a master plan for the Precinct that is prepared and approved by the Minister under section 3.6.

**pipeline corridor** means land that is within—

- (a) the licence area of a relevant pipeline, or
- (b) 20 metres of the centreline, measured radially, of a relevant pipeline, or
- (c) 20 metres of land the subject of an easement for a relevant pipeline.

**relevant pipeline** means a pipeline for gas or petroleum or other liquid fuels under the *Pipelines Act 1967* with the following licence numbers—

- (a) for land in the Parkes Activation Precinct—licence number 25,
- (b) for land in the Wagga Wagga Activation Precinct—licence numbers 19 and 23.

**solar energy farm** means a photovoltaic or concentrated solar power electricity generating system that—

- (a) is located on ground level and is ground-mounted, and
- (b) has a capacity to generate 1 megawatt or more.

**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) A word or expression used in this Chapter has the same meaning as in the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Chapter.
- (3) A reference to this Chapter includes a reference to a Schedule made under this Chapter.

### **3.3 Land to which Chapter applies**

This Chapter applies to land within an Activation Precinct.

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

- (1) 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.
- (2) A local environmental plan does not apply to land within an Activation Precinct.
- (3) *State Environmental Planning Policy (Planning Systems) 2021*, Chapter 2 does not apply to land within an Activation Precinct.
- (4) Subsection (3) does not apply to development carried out on land that is partly within and partly outside an Activation Precinct.

### **3.5 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) Any 2 or more named maps may be combined into a single map.
- (3) In that case, a reference in this Chapter to the named map is a reference to the relevant part or aspect of the single map.
- (4) The maps adopted by this Chapter are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (5) 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.
- (6) A map referred to in a Schedule made under this Chapter is taken to be a map adopted by this Chapter.

#### **3.5A Savings**

An application for a complying development certificate made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

## **Part 3.2 Master plans and delivery plans**

### **3.6 Master plans for Activation Precincts**

- (1) The Minister is to prepare and approve a master plan that applies to all land within an Activation Precinct.
- (2) The master plan for an Activation Precinct must contain the following information—
  - (a) the strategic vision and general objectives for the Activation Precinct,
  - (b) a map showing proposed land uses for land within the Activation Precinct,
  - (c) the performance criteria for development on land within the Activation Precinct,
  - (d) information about any heritage items, heritage conservation areas or places of heritage significance within the Activation Precinct,
  - (e) limitations on development on land within the Activation Precinct, such as environmentally sensitive areas, contaminated land, flooding and cultural heritage.
- (3) The master plan for an Activation Precinct may also contain proposals for public utility infrastructure and roads and transport.
- (4) The master plan for an Activation Precinct must be consistent with this Chapter.
- (5) The Minister may amend or replace a master plan.
- (6) A draft master plan is to be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (7) A master plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is so published.

### **3.7 Delivery plans for Activation Precincts**

- (1) There is to be at least one delivery plan for an Activation Precinct.
- (2) A delivery plan is to be prepared by the Development Corporation and must be approved by the Planning Secretary.
- (3) A delivery plan may apply to all land or specified land within the Activation Precinct.
- (4) A delivery plan must be consistent with the master plan for the Activation Precinct.
- (5) A delivery plan must contain the following information—
  - (a) the specific development controls for particular development on land within the Activation Precinct,

- (b) the basis on which particular development is proposed, having regard to applicable economic, social and environmental factors,
  - (c) existing and proposed infrastructure, public open spaces, public transport and road networks within the Activation Precinct,
  - (d) any areas of environmental significance within the Activation Precinct,
  - (e) the location and details of any infrastructure corridor designated under Division 5.3 of the Act on land within the Activation Precinct,
  - (f) how the development achieves the general objectives for land within the Activation Precinct that are specified in the master plan for the Precinct.
- (6) Before a delivery plan is approved by the Planning Secretary, the Development Corporation must—
- (a) seek and consider submissions from the public on a draft delivery plan, by publishing the draft on the Development Corporation’s website for at least 28 days, and
  - (b) provide the Planning Secretary with a written response to any submissions received.
- (7) A delivery plan approved by the Planning Secretary must be published on the NSW planning portal and takes effect on the day it is so published.

### **3.8 Consent authority to consider master plans and delivery plans**

A consent authority must have regard to the following when determining an application for development consent to carry out development on land within an Activation Precinct—

- (a) the master plan for the Activation Precinct,
- (b) any delivery plan that applies to the land on which the development is to be carried out,
- (c) any draft master plan or draft delivery plan that is published on the NSW planning portal.

## **Part 3.3 Activation Precinct certificates**

### **Division 1 General**

#### **3.9 Applications for Activation Precinct certificates**

- (1) An application for an Activation Precinct certificate in respect of proposed development on land within an Activation Precinct may be made to the Development Corporation.

- (2) An application may be made only by the person who proposes to carry out the proposed development with the consent of the owner of the land to which the Activation Precinct certificate relates.
- (3) An application must be in the form approved by the Development Corporation and include the following information—
  - (a) the name and address of the applicant,
  - (b) the address, and particulars of title, of the subject land,
  - (c) a description of the proposed development.
- (4) (Repealed)

### **3.10 Determination of applications for Activation Precinct certificates**

- (1) The Development Corporation must determine an application by issuing an Activation Precinct certificate in accordance with this Part or refusing to issue a certificate.
- (2) The Development Corporation must determine an application within 30 days of the application being made.

**Note.**

There is no right of review or appeal in relation to a determination of, or a failure to determine, an application for an Activation Precinct certificate.

- (3) The Development Corporation may issue an Activation Precinct certificate for development on land only if—
  - (a) there is a master plan and delivery plan that apply to the land concerned, and
  - (b) the Development Corporation is of the opinion that the development is consistent with the master plan and delivery plan.
- (4) Before determining an application, the Development Corporation may request that an applicant—
  - (a) modify the application to make it consistent with the master plan and delivery plan for the land, or
  - (b) provide additional information about the development that the Development Corporation considers necessary to properly consider the application.
- (4A) The request must specify a reasonable period within which the applicant must modify the application or provide the information.
- (4B) The period between the Development Corporation's request and the earlier of the following is not to be counted towards the 30-day period specified in subsection (2)—

- (a) the day on which the applicant modifies the application or provides the information,
  - (b) the day on which the applicant notifies the Development Corporation that the applicant will not modify the application or provide the information,
  - (c) the end of the period specified under subsection (4A).
- (5) The Development Corporation must provide its reasons for refusing to issue an Activation Precinct certificate.
- (6) *State Environmental Planning Policy (Resilience and Hazards) 2021*, sections 3.11, 3.12 and 4.6 apply to an application for an Activation Precinct certificate that relates to complying development in the same way as they apply to an application for development consent.

**Note—**

*State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapters 3 and 4 apply to development in an Activation Precinct that is not complying development.

- (7) For the purposes of subsection (6), any reference in those sections to a development application, development consent or a consent authority is to be read as a reference to an application for an Activation Precinct certificate, the issuing of an Activation Precinct certificate or the Development Corporation, respectively.

### **3.11 Activation Precinct certificates for complying development involving potentially hazardous industry**

- (1) The Development Corporation must not issue an Activation Precinct certificate that relates to complying development for the purposes of a potentially hazardous industry without the approval of the Planning Secretary.
- (2) The Planning Secretary may grant approval for the purposes of subsection (1) only if satisfied that the development does not pose an unacceptable risk in the locality to human health, life, property or the biophysical environment.
- (3) This section does not affect the issue of an Activation Precinct certificate that relates to development proposed to be carried out with development consent, other than a complying development certificate.
- (4) In this section—

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

### **3.12 Duration of Activation Precinct certificates**

An Activation Precinct certificate remains in force for 3 years after it is issued.

### **3.12A Requirement for Activation Precinct certificate for development consent**

- (1) Development consent, other than a complying development certificate, must not be granted to development on land in an Activation Precinct unless an Activation Precinct certificate is in force in relation to the development.
- (2) This section does not apply to development on land in—
  - (a) an Activation Precinct carried out by or behalf of a public authority, or
  - (b) the Snowy Mountains Activation Precinct.

**Note—**

Under the *Environmental Planning and Assessment Regulation 2021*, section 126, an application for a complying development certificate for development on land in an Activation Precinct, other than the Snowy Mountains Activation Precinct, must be accompanied by an Activation Precinct certificate.

## **Division 2 Consultation for certain development**

### **3.13 Development near electricity transmission and distribution networks**

- (1) The Development Corporation must not issue an Activation Precinct certificate for the following development unless the Development Corporation has consulted the electricity supply authority for the area in which the development is to be carried out—
  - (a) development that involves the penetration of ground within 10 metres of—
    - (i) an underground electricity power line, or
    - (ii) an electricity distribution pole, or
    - (iii) any part of an electricity tower,
  - (b) development on land—
    - (i) within or immediately adjacent to an easement for electricity purposes, or
    - (ii) immediately adjacent to an electricity substation, or
    - (iii) within 5 metres of an exposed overhead electricity power line.

- (2) In this section—

***electricity supply authority*** has the same meaning as in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 5.

### **3.14 Development in pipeline areas**

- (1) The Development Corporation must not issue an Activation Precinct certificate for development on land within the measurement length of a relevant pipeline unless the



Development Corporation—

- (a) has consulted the operator of the relevant pipeline, and
- (b) is satisfied that the development will adequately deal with potential risks to the integrity of the pipeline.

(2) In this section—

**measurement length** has the same meaning as in Australian and New Zealand Standard AS/NZS 2885.1:2018, *Pipelines—Gas and liquid petroleum, Part 1: Design and construction*.

### 3.15 Development in rail corridors

- (1) The Development Corporation must not issue an Activation Precinct certificate for the following development unless the Development Corporation has consulted the rail authority for the rail corridor—
  - (a) development that involves—
    - (i) a new level crossing, or
    - (ii) the conversion into a public road of a private access road across a level crossing, or
    - (iii) a likely significant increase in the total number of vehicles or the number of trucks using a level crossing,
  - (b) development on land that is in or adjacent to a rail corridor if the development—
    - (i) is likely to have an adverse effect on rail safety, or
    - (ii) involves the placing of a metal finish on a structure in a rail corridor used by electric trains, or
    - (iii) involves the use of a crane in air space above a rail corridor, or
    - (iv) is located within 5 metres of an exposed overhead electricity power line that is used for railways or rail infrastructure facilities,
  - (c) development that involves the penetration of ground to a depth of at least 2 metres below ground level (existing) on land—
    - (i) within, below or above a rail corridor, or
    - (ii) within 25 metres, measured horizontally, of a rail corridor, or
    - (iii) within 25 metres, measured horizontally, of the ground directly below a rail corridor, or

(iv) within 25 metres, measured horizontally, of the ground directly above an underground rail corridor.

(2) Land is adjacent to a rail corridor for the purpose of subsection (1)(b) even if it is separated from the rail corridor by a road or road related area.

(3) In this section—

**level crossing** means a level crossing over railway lines.

**rail authority** for a rail corridor has the same meaning as in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 15.

**rail corridor** has the same meaning as in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 15.

**road related area** has the same meaning as in the *Road Transport Act 2013*.

### 3.16 Consultation procedure

If required to consult with a person or body under this Division, the Development Corporation must—

- (a) within 2 days of receiving an application for an Activation Precinct Certificate, give written notice of the application to the person or body, and
- (b) consider any submissions received from the person or body within 14 days of giving the written notice to the person or body.

## Part 3.4 Complying development

### 3.17 Application of Codes SEPP

- (1) The Codes SEPP does not apply to land in an Activation Precinct, subject to this part and the schedules made under this chapter.
- (2) Despite subsection (1), the Codes SEPP applies to the Snowy Mountains Activation Precinct to the extent it relates to the carrying out of complying development.

**Note—**

See section 3.18(3).

### 3.18 Complying development

- (1) Development that is permitted with development consent on land in an Activation Precinct is complying development if the development is carried out in compliance with—
  - (a) the requirements of this Part, and

- (b) the development standards specified in Schedule 1E, Parts 1 and 2.
- (2) Despite subsection (1), development for the following purposes is not complying development—
  - (a) electricity generating works, other than solar energy farms,
  - (b) for the Wagga Wagga and Moree Activation Precincts—centre-based child care facilities,
  - (c) thermal energy from waste development, within the meaning of section 3.22.
- (3) This section does not apply to land in the Snowy Mountains Activation Precinct.

**Note—**

See section 3.17(2) for the application of the Codes SEPP to complying development in the Snowy Mountains Activation Precinct.

### **3.19 General requirements for complying development**

- (1) To be complying development, the development must—
  - (a) meet the relevant provisions of the *Building Code of Australia*, and
  - (b) be carried out in accordance with the relevant provisions of the Blue Book, and
  - (c) be installed in accordance with the manufacturer’s specifications, if applicable.
- (2) To be complying development, the development must not—
  - (a) be for the purposes of a remediation work within the meaning of [State Environmental Planning Policy \(Resilience and Hazards\) 2021](#), Chapter 4, or
  - (b) (Repealed)
  - (c) involve the removal of asbestos, unless the removal is undertaken in accordance with *How to Safely Remove Asbestos: Code of Practice*, published by Safe Work Australia in July 2020, or
  - (d) involve development that requires development consent under clause 5.10 of the local environmental plan that applies to the Activation Precinct.
- (3) To be complying development, the development must not be carried out—
  - (a) in a pipeline corridor, or
  - (b) for development involving the erection of a building—within 1m of a public sewer except with the written approval of the authority that manages or controls the sewer.
- (4) To be complying development in the Parkes Activation Precinct, the development must

not be carried out on land—

- (a) on which a heritage item or Aboriginal object is located, or
- (b) in a heritage conservation area or Aboriginal place of heritage significance.

(5), (6) (Repealed)

### **3.20 Complying development in environmentally sensitive areas**

(1) To be complying development, the development must not be carried out on—

(a) land identified as an “environmentally sensitive area” on—

- (i) the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#), or
- (ii) the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Environmentally Sensitive Areas Map](#), or
- (iii) (Repealed)

(b) land identified as an “environmental conservation area” on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Environmental Conservation Areas Map](#).

(2) Subsection (1) does not apply to development for the purposes of environmental protection works or recreation areas.

(3) Subsection (1) does not apply to development involving the clearing of native vegetation if development consent has been obtained for the clearing in accordance with the following provisions—

- (a) for the Parkes Activation Precinct—Schedule 1, section 10A,
- (b) for the Wagga Wagga Activation Precinct—Schedule 1A, section 12,
- (c) for the Moree Activation Precinct—Schedule 1B, section 10.
- (d) (Repealed)

### **3.21 Complying development certificate conditions**

A complying development certificate for complying development under this Chapter is subject to—

- (a) the conditions specified in Schedule 1E, Part 3, and
- (b) the conditions specified in the following provisions of the Codes SEPP—
  - (i) (Repealed)

- (ii) Schedule 6, clause 6,
- (iii) for complying development involving subdivision—Schedule 6B, other than clause 2,
- (iv) Schedule 8, other than clauses 11 and 24B,
- (v) for complying development involving demolition—Schedule 9.

## Part 3.5 Miscellaneous

### 3.22 Thermal energy from waste development

(1) This section applies to the following Activation Precincts—

- (a) Parkes Activation Precinct,
- (b) Wagga Wagga Activation Precinct,
- (c) Moree Activation Precinct.

(2) Development consent must not be granted to thermal energy from waste development unless the consent authority is satisfied that the development is consistent with the *NSW Energy from Waste Policy Statement* published by the Environment Protection Authority in June 2021.

(3) In this section—

**energy recovery** has the same meaning as in the *Protection of the Environment Operations (General) Regulation 2022*, section 142(1).

**thermal energy from waste development** means development for the purposes of electricity generating works, industries or waste or resource management facilities involving, or carried out to enable, the thermal treatment of waste involving or resulting in energy recovery from the waste.

**thermal treatment** has the same meaning as in the *Protection of the Environment Operations Act 1997*, Schedule 1.

**waste** has the same meaning as in the *Protection of the Environment Operations Act 1997*.

## Chapter 4 Kosciuszko Alpine Region

### Part 4.1 Preliminary

#### 4.1 Aim and objectives of Chapter

(1) The aim of this Chapter is to protect and enhance the Alpine Region by ensuring

development is managed with regard to the principles of ecologically sustainable development, including the conservation and restoration of ecological processes, natural systems and biodiversity.

- (2) The objectives of this Chapter are as follows—
- (a) to encourage the carrying out of a range of development to support sustainable tourism in the Alpine Region all year round, if the development does not result in adverse environmental, social or economic impacts on the natural or cultural environment of the Alpine Region, including cumulative impacts on the environment from development and resource use,
  - (b) to establish planning controls that—
    - (i) contribute to and facilitate the carrying out of ecologically sustainable development in the Alpine Region, and
    - (ii) recognise the Alpine Region’s significant contribution to recreation and the tourism economy in the State,
  - (c) to minimise the risk to the community of exposure to environmental hazards, particularly geotechnical hazards, bush fires and flooding, by—
    - (i) generally requiring development consent on land in the Alpine Region, and
    - (ii) establishing planning controls for buildings to ensure the safety of persons using the buildings if there is a fire.

#### **4.2 Land to which Chapter applies**

- (1) This Chapter applies to the Alpine Region.
- (2) The Alpine Region comprises the following Alpine Subregions—
  - (a) Blue Cow Terminal,
  - (b) Bullocks Flat Terminal,
  - (c) Charlotte Pass Alpine Resort,
  - (d) Creel Bay Alpine Accommodation,
  - (e) Kosciuszko Tourist Park Alpine Accommodation,
  - (f) Mount Selwyn Alpine Resort,
  - (g) Perisher Range Alpine Resort,
  - (h) Ski Rider Alpine Accommodation,

- (i) Sponars Chalet Alpine Accommodation,
  - (j) Thredbo Alpine Resort,
  - (k) Thredbo Ranger Station Alpine Accommodation.
- (3) Each of the Alpine Subregions is identified on a map as follows—
- (a) Blue Cow Terminal is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Perisher Range Alpine Resort Map](#),
  - (b) Bullocks Flat Terminal is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Bullocks Flat Terminal Map](#),
  - (c) Charlotte Pass Alpine Resort is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Charlotte Pass Alpine Resort Map](#),
  - (d) Creel Bay Alpine Accommodation is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Minor Alpine Accommodation Map](#),
  - (e) Kosciuszko Tourist Park Alpine Accommodation is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Minor Alpine Accommodation Map](#),
  - (f) Mount Selwyn Alpine Resort is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Mount Selwyn Alpine Resort Map](#),
  - (g) Perisher Range Alpine Resort is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Perisher Range Alpine Resort Map](#),
  - (h) Ski Rider Alpine Accommodation is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Minor Alpine Accommodation Map](#),
  - (i) Sponars Chalet Alpine Accommodation is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Minor Alpine Accommodation Map](#),
  - (j) Thredbo Alpine Resort is identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Thredbo Alpine Resort Map](#),
  - (k) Thredbo Ranger Station Alpine Accommodation on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Thredbo Ranger Station Alpine Accommodation Map](#).

### 4.3 Definitions

- (1) The Dictionary in Schedule 4A defines words used in this Chapter.

**Note—**

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

- (2) In this Chapter, development for the purposes of water storage facilities or sewage treatment plants does not include the installation or use of pipelines, pumps or related infrastructure used to—
  - (a) supply water to or from water storage facilities, or
  - (b) convey sewage to, or output from, a sewage treatment plant.
- (3) Words used in this Chapter have the same meaning as in the Standard Instrument, unless otherwise defined.

**Note—**

**Commercial premises** and **shop**, which are land uses defined in the Standard Instrument, are defined differently in the Dictionary in Schedule 4A.

- (4) A reference to this Chapter includes a reference to a Schedule made under this Chapter.

#### **4.4 Consent authority**

The Minister is the consent authority for the purposes of this Chapter.

**Note—**

See the [Environmental Planning and Assessment \(Savings, Transitional and Other Provisions\) Regulation 2017](#), Schedule 1, clause 32C(2)(a).

#### **4.5 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—
    - (i) declared by environmental planning instruments to amend or replace the map, and
    - (ii) 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 must be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.
- (4) A map referred to in a Schedule made under this Chapter is taken to be a map adopted by this Chapter.



#### **4.6 Application of other environmental planning instruments**

The following do not apply to land to which this chapter applies—

- (a) *Snowy River Local Environmental Plan 2013*,
- (b) *State Environmental Planning Policy (Housing) 2021*, Chapter 4,
- (c) *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3,
- (d) *Tumut Local Environmental Plan 2012*.

### **Part 4.2 Permitted or prohibited development**

#### **4.7 Land Use Table**

- (1) The Land Use Table at the end of this Part specifies the following for each Alpine Subregion—
  - (a) development that may be carried out without development consent,
  - (b) development that may be carried out only with development consent,
  - (c) development that is prohibited.
- (2) In the Land Use Table at the end of this Part—
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of the type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include, despite a definition in this Chapter, a reference to a type of building or other thing referred to separately in the Table in relation to the same Alpine Subregion.
- (3) This section is subject to the other provisions of this Chapter.

#### **4.8 Subdivision**

- (1) Land in the Alpine Region may be subdivided with development consent.
- (2) However, development consent is not required for a subdivision for the purposes of the following—
  - (a) widening a public road,
  - (b) adjusting a boundary between lots, if the adjustment does not create more lots,
  - (c) consolidating lots, if the consolidation does not create more lots,
  - (d) rectifying an encroachment on a lot,

- (e) excising from a lot land that is, or is intended to be, used for public purposes, including drainage, rural fire brigades or other emergency services and public conveniences.

#### **4.9 Demolition**

The demolition of a building or work on land in the Alpine Region may be carried out only with development consent.

**Note—**

Demolition may be exempt development under Part 4.3.

#### **4.10 Temporary use of land**

- (1) The objective of this section is to provide for the temporary use of land if the use does not—
  - (a) compromise future development of the land, or
  - (b) have adverse economic, social, amenity or environmental impacts on the land.
- (2) Despite the Land Use Table, development consent may be granted to the temporary use of land in the Alpine Region for any purpose for a maximum period of 52 days, whether or not consecutive, in a period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land, and
  - (b) the temporary use will not adversely impact adjoining land or the amenity of the area, and
  - (c) the temporary use, and the location of structures related to the use, will not—
    - (i) adversely impact environmental attributes or features of the land, or
    - (ii) increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition it was in before the use commenced.

### **Land Use Table**

#### **Blue Cow Terminal**

##### **1 Permitted without consent**

Nil

## **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Transport depots; Vehicle repair stations

## **3 Prohibited**

Any development not specified in item 1 or 2

### **Bullocks Flat Terminal**

#### **1 Permitted without consent**

Nil

#### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Helipads; Information and education facilities; Infrastructure facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Transport depots; Vehicle repair stations

#### **3 Prohibited**

Any development not specified in item 1 or 2

### **Charlotte Pass Alpine Resort**

#### **1 Permitted without consent**

Nil

#### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical

centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

**3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

**Creel Bay Alpine Accommodation**

**1 Permitted without consent**

Nil

**2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

**3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

**Kosciuszko Tourist Park Alpine Accommodation**

**1 Permitted without consent**

Nil

**2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Community facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Information and education facilities; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

**3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Hotel or motel accommodation; Any other development not specified in item 1 or 2

## **Mount Selwyn Alpine Resort**

### **1 Permitted without consent**

Nil

### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; Transport depots; Vehicle repair stations

### **3 Prohibited**

Any development not specified in item 1 or 2

## **Perisher Range Alpine Resort**

### **1 Permitted without consent**

Nil

### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation; Telecommunications facilities; The Skitube; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

### **3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

## **Ski Rider Alpine Accommodation**

### **1 Permitted without consent**

Nil

## **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Commercial premises; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation; Transport depots

## **3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

### **Sponars Chalet Alpine Accommodation**

#### **1 Permitted without consent**

Nil

#### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Commercial premises; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities; Tourist and visitor accommodation

#### **3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

### **Thredbo Alpine Resort**

#### **1 Permitted without consent**

Nil

#### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Car parks; Commercial premises; Community facilities; Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Helipads; Information and education facilities; Infrastructure facilities; Lifting facilities; Management trails; Medical centres; Monitoring stations; Places of public worship; Public utility undertakings; Recreation facilities (indoor); Recreation facilities (outdoor); Recreation infrastructure; Ski slope huts; Ski slopes; Snow-making infrastructure; Staff accommodation;

Telecommunication facilities; Tourist and visitor accommodation; Transport depots; Vehicle repair stations

### **3 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other development not specified in item 1 or 2

## **Thredbo Ranger Station Alpine Accommodation**

### **1 Permitted without consent**

Nil

### **2 Permitted with consent**

Advertising structures; Building identification signs; Business identification signs; Camping grounds; Commercial premises; Community facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Fences; Function centres; Infrastructure facilities; Management trails; Monitoring stations; Public utility undertakings; Recreation infrastructure; Staff accommodation; Telecommunications facilities

### **3 Prohibited**

Any development not specified in item 1 or 2

## **Part 4.3 Exempt and complying development**

### **4.11 Requirements for exempt and complying development**

- (1) Development specified in Schedule 2 is exempt development in the Alpine Region if the development complies with—
  - (a) the requirements of this Part, and
  - (b) the development standards specified in Schedule 2.
- (2) Development specified in Schedule 3, Part 1 is complying development in the Alpine Region if the development complies with—
  - (a) the requirements of this Part, and
  - (b) the development standards specified in Schedule 3, Part 1.
- (3) To be exempt or complying development, the development must not be carried out on the following land—
  - (a) land that is or contains a heritage item listed on the State Heritage Register under the *Heritage Act 1977*,
  - (b) land subject to an interim heritage order under that Act.

(c), (d) (Repealed)

(e) land to which section 4.16 applies.

(3A) To be exempt or complying development, the development must not be carried out within 50m of an Aboriginal heritage item or Aboriginal place.

**Note—**

See the [National Parks and Wildlife Act 1974](#), section 86 for an offence of harming or desecrating Aboriginal objects and Aboriginal places.

(4) To be exempt or complying development, the development must not be carried out—

(a) in a declared area of outstanding biodiversity value within the meaning of the [Biodiversity Conservation Act 2016](#), or

(b) in critical habitat within the meaning of the [Fisheries Management Act 1994](#), Part 7A, or

(c) in a wilderness area within the meaning of the [Wilderness Act 1987](#), or

(d) in a flood planning area, or

(e) if the development involves earthworks—on land identified as “Archaeologically sensitive land” on the [State Environmental Planning Policy \(Precincts—Regional\) Kosciuszko Alpine Region Aboriginal Archaeological Heritage Map](#).

(5) To be exempt or complying development, the development must not be carried out on waterfront land unless the development is carried out—

(a) under a controlled activity approval, or

(b) in accordance with an exemption from the requirement to have a controlled activity approval under the regulations under the [Water Management Act 2000](#).

(6) (Repealed)

(7) Development carried out as exempt or complying development under this Part does not include development required to access the site on which the exempt or complying development is carried out.

(8) A heading to a section in Schedule 2 or 3 is part of the Schedule.

(9) In this section—

**controlled activity approval** has the same meaning as in the [Water Management Act 2000](#).

**waterfront land** has the same meaning as in the [Water Management Act 2000](#).



#### 4.12 Requirements for exempt development

**Note—**

Under the Act, section 1.6, the carrying out of exempt development does not require—

- (a) development consent under the Act, Part 4, or
- (b) environmental impact assessment under the Act, Division 5.1, or
- (c) State significant infrastructure approval under the Act, Division 5.2, or
- (d) a certificate under the Act, Part 6.

Exempt development is not exempt from an approval, licence, permit or authority that is required under another Act, including the *National Parks and Wildlife Act 1974*. Adjoining owners' property rights and the common law still apply.

(1A) To be exempt development, the development must—

- (a) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or
- (b) if there are no relevant deemed-to-satisfy provisions—be structurally adequate.

(1) To be exempt development, the development must not—

- (a) involve earthworks that are deeper than 1,000mm below ground level (existing) or that compromise support for adjoining land, or
- (b) involve the damage, removal or pruning of a tree or other vegetation that requires a permit, approval, consent or development consent, unless the damage, removal or pruning is carried out in accordance with the permit, approval, consent or development consent, or
- (c) if it relates to an existing building—cause the building to contravene the *Building Code of Australia*.

(2) Development relating to an existing building classified under the *Building Code of Australia* as class 1b or class 2–9 is not exempt development unless—

- (a) the building has a current fire safety certificate or fire safety statement, or
- (b) no fire safety measures are currently implemented, required or proposed for the building.

(3) In this section—

**fire safety certificate**, **fire safety measure** and **fire safety statement** have the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

#### **4.13 Requirements for complying development**

- (1) To be complying development, the development—
  - (a) must be permitted with development consent on the land on which it is carried out, and
  - (b) must be consistent with the *Geotechnical Policy—Kosciuszko Alpine Resorts* published by the Department in November 2003, and
  - (c) must not be for the purposes of remediation within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4, and
  - (d) must not be designated development, and
  - (e) must meet the relevant provisions of the *Building Code of Australia*.
- (2) A complying development certificate must not be issued for development involving the removal or pruning of a tree or other vegetation that requires a permit, approval, consent or development consent unless the permit, approval, consent or development consent is in force.
- (3) A complying development certificate for complying development under this Chapter is subject to—
  - (a) the conditions specified in Schedule 3, Part 2, and
  - (b) the conditions specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Schedule 8, other than clauses 2(2), 6, 7, 12(2), 17(3), 21, 24A(2) and 25.

### **Part 4.4 Other development controls**

#### **4.14 Development by Crown, public authorities or Snowy Hydro**

- (1) Development is permitted without development consent in the Alpine Region if the development is carried out by or on behalf of—
  - (a) the Crown, or
  - (b) a public authority, or
  - (c) Snowy Hydro Limited.
- (2) Despite subsection (1), development for the following purposes, other than development carried out by or on behalf of Snowy Hydro Limited, is permitted with development consent—
  - (a) water storage facilities,

- (b) sewage treatment plants,
- (c) waste or resource management facilities.

#### **4.15 Development on land on Kosciuszko Road and Alpine Way**

Development for the following purposes is permitted with development consent on land specified in the [National Parks and Wildlife Act 1974](#), Schedule 16—

- (a) advertising structures,
- (b) car parks,
- (c) infrastructure facilities,
- (d) roads.

**Note—**

Land specified in the [National Parks and Wildlife Act 1974](#), Schedule 16 is not part of an Alpine Subregion so the Land Use Table does not apply to the land.

#### **4.16 Development near Kangaroo Ridgeline**

- (1) This section applies to the land identified as “Kangaroo Ridgeline” on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Charlotte Pass Alpine Resort Map](#).
- (2) Despite any other provision of this Plan, development for any purpose is prohibited on the land to which this section applies, other than development carried out under section 4.8–4.10 or 4.14.
- (3) Despite subsection (2) and the Land Use Table, development for the following purposes is permitted with development consent on the land to which this section applies—
  - (a) management trails,
  - (b) recreation infrastructure,
  - (c) snow-making infrastructure,
  - (d) ski slopes.

#### **4.17 Classified roads**

- (1) The objectives of this section are as follows—
  - (a) to ensure that development does not compromise the effective and ongoing operation and function of classified roads,

- (b) to prevent or reduce the potential impact of traffic noise and vehicle emissions on development adjacent to classified roads.
- (2) Development consent must not be granted to development on land in the Alpine Region with a frontage to a classified road unless the consent authority is satisfied of the following—
  - (a) if practicable, vehicular access to the land is provided by a road other than the classified road,
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
    - (i) the design of the vehicular access to the land, or
    - (ii) the emission of smoke or dust from the development, or
    - (iii) the nature, volume or frequency of vehicles using the classified road to access to the land,
  - (c) the development is of a type that—
    - (i) is not sensitive to traffic noise or vehicle emissions, or
    - (ii) is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions on the site.

#### **4.18 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the [Rural Fires Act 1997](#) is permitted without development consent in the Alpine Region.

**Note—**

The [Rural Fires Act 1997](#) also makes provision relating to the carrying out of development on bush fire prone land.

#### **4.19 Public utility infrastructure**

- (1) Development consent must not be granted for development in the Alpine Region unless the consent authority is satisfied that—
  - (a) the public utility infrastructure that is essential for the proposed development is available, or
  - (b) adequate arrangements have been made to make that infrastructure available when required.
- (2) This section does not apply to development for the purposes of providing, extending, augmenting, maintaining or repairing public utility infrastructure.

(3) In this section—

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

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

#### 4.20 Conversion of fire alarms

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or a private service provider.
- (2) The following development may be carried out in the Alpine Region with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

(3) In this section—

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

#### 4.21 Heritage conservation

- (1) The objective of this section is to conserve—
  - (a) the environmental heritage of the Alpine Region, and
  - (b) the heritage significance of heritage items, including associated fabric, settings and views, and
  - (c) Aboriginal heritage items and Aboriginal places.
- (2) Development consent is required for the following in the Alpine Region—
  - (a) demolishing or moving a heritage item,
  - (b) altering a heritage item, including by doing the following to a heritage item that is

- a building—
    - (i) making changes to the detail, fabric, finish or appearance of the building's exterior,
    - (ii) making structural changes to the building's interior,
  - (c) disturbing or excavating land that is, or contains, an Aboriginal heritage item,
  - (d) erecting a building on land that is, or contains, a heritage item,
  - (e) subdividing land that is, or contains, a heritage item.
- (3) Development consent is not required under this section for the following development—
- (a) development that involves only the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property,
  - (b) exempt development,
  - (c) development that does not require development consent under section 4.14.
- (4) The consent authority may, before work is carried out, give written notice to an applicant for development consent that development consent is not required under this section if the consent authority is satisfied the development—
- (a) is of a minor nature or is for the maintenance of the heritage item, and
  - (b) the development will not adversely impact the heritage significance of the heritage item.
- (5) In deciding whether to grant development consent for development under this section, the consent authority—
- (a) must consider the effect of the development on—
    - (i) the heritage significance of the heritage item, and
    - (ii) Aboriginal objects known or reasonably likely to be located on the land,
  - (b) may require the submission of a heritage conservation management plan, and
  - (c) for development on land that is, contains or is near a heritage item— may require the preparation of a heritage impact statement.
- (6) Development consent must not be granted to development on land that is, or contains, an Aboriginal heritage item, and that requires development consent under this section, unless the consent authority has—
- (a) given written or other appropriate notice of the development to the local

Aboriginal communities, and

- (b) considered responses received from the communities within 28 days after the notice is given.

#### **4.22 Conservation incentives**

- (1) This section applies to development in the Alpine Region 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.
- (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) granting the development consent will facilitate the conservation of the heritage item,
  - (b) the development will be in accordance with a heritage conservation management plan that has been approved by the consent authority,
  - (c) the development consent will require the carrying out of all necessary conservation work identified in the heritage conservation management plan,
  - (d) the development will not adversely affect the heritage significance of the heritage item, including its setting,
  - (e) the development will not have a significant adverse impact on the amenity of the surrounding area.

#### **4.23 Eco-tourist facilities**

- (1) The objectives of this section are as follows—
  - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
  - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment on and off site.
- (2) This section does not apply to development relating to a building classified as class 1a under the *Building Code of Australia*.
- (3) Development consent must not be granted to development for the purposes of eco-tourist facilities in the Alpine Region unless the consent authority is satisfied of the following—
  - (a) there is a demonstrated connection between the development and the ecological,

- environmental and cultural values of the area,
- (b) the development will be located, constructed, managed and maintained to minimise impact on, and to conserve, the natural environment,
  - (c) the development will enhance the appreciation of the environmental and cultural values of the area,
  - (d) the development will promote positive environmental outcomes,
  - (e) the impacts of the development on watercourses, soil quality, heritage and native flora and fauna will be minimal,
  - (f) the site will be maintained or regenerated to ensure the continued protection of natural resources and enhancement of the natural environment,
  - (g) waste generation during construction and operation will be avoided and waste will be appropriately removed,
  - (h) the development will be located to avoid visibility above ridgelines, against escarpments and from watercourses, and visual intrusions will be minimised through the choice of design, colours, materials and landscaping with local native flora,
  - (i) infrastructure services to the site will be provided without significant modification to the environment,
  - (j) power and water to the site will, where possible, be provided using passive heating and cooling, renewable energy sources and water-efficient design,
  - (k) the development will not adversely affect the agricultural productivity of adjoining land,
  - (l) the following matters are addressed or provided for in a management strategy for minimising impacts on the natural environment—
    - (i) measures to remove threats of serious or irreversible environmental damage,
    - (ii) the maintenance or regeneration of habitats,
    - (iii) efficient and minimal energy and water use and waste output,
    - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
    - (v) maintaining improvements on an ongoing basis in accordance with ISO 14000 standards relating to management and quality control.



#### 4.24 Flood planning

- (1) The objectives of this section are as follows—
  - (a) to minimise the flood risk to life and property associated with the use of land,
  - (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
  - (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
  - (d) to enable the safe occupation and efficient evacuation of people if there is a flood.
- (2) Development consent must not be granted to development on land in the Alpine Region the consent authority considers to be in the flood planning area unless the consent authority is satisfied the development—
  - (a) is compatible with the flood function and behaviour on the land, and
  - (b) will not adversely impact flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
  - (c) will not adversely impact the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area if there is a flood, and
  - (d) incorporates appropriate measures to manage risk to life if there is a flood, and
  - (e) will not adversely impact the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
- (3) In deciding whether to grant development consent on land the consent authority considers to be in the flood planning area, the consent authority must consider the following matters—
  - (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
  - (b) the intended design and scale of buildings resulting from the development,
  - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people if there is a flood,
  - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.
- (4) Words used in this section have the same meaning as in the *Considering Flooding in*

*Land Use Planning Guideline*, published on the Department's website on 14 July 2021, unless otherwise defined.

#### **4.25 Earthworks**

- (1) The objective of this section is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- (2) Development consent is required for earthworks in the Alpine Region unless—
  - (a) the earthworks are exempt development under this Chapter or another environmental planning instrument, or
  - (b) the earthworks are ancillary to—
    - (i) development permitted without consent under this Chapter, or
    - (ii) development for which development consent has been given.
- (3) In deciding whether to grant development consent for earthworks, or for development involving ancillary earthworks, the consent authority must consider the following matters—
  - (a) the likely disruption of, or adverse impact on, drainage patterns and soil stability in the locality of the development,
  - (b) the effect of the development on the likely future use or redevelopment of the land,
  - (c) the quality of the fill or the soil to be excavated, or both,
  - (d) the effect of the development on the existing and likely amenity of adjoining properties,
  - (e) the source of any fill material and the destination of any excavated material,
  - (f) the likelihood of disturbing relics,
  - (g) the proximity to, and potential for adverse impacts on, a waterway, drinking water catchment or environmentally sensitive area,
  - (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note—**

The [National Parks and Wildlife Act 1974](#), particularly section 86, deals with harming Aboriginal objects.

## Part 4.5 Development assessment and consent

### 4.26 Master plans

- (1) The Minister must prepare and approve a master plan that applies to the Alpine Region.
- (2) The master plan must contain the following information—
  - (a) the strategic vision and general objectives for the Alpine Region,
  - (b) a map showing existing and proposed types of development,
  - (c) the performance criteria for development,
  - (d) information about heritage items or places of heritage significance,
  - (e) limitations on development on certain land, including environmentally sensitive areas, land prone to flooding and cultural heritage.
- (3) The master plan may also contain proposals for infrastructure facilities, public utility undertakings, roads and transport.
- (4) The master plan must be consistent with this Chapter.
- (5) The Minister may amend or replace a master plan.
- (6) A draft master plan must be published on the NSW planning portal for at least 28 days before it is approved by the Minister.
- (7) A master plan approved by the Minister must be published on the NSW planning portal and takes effect on the day it is published.

### 4.27 Consultation with National Parks and Wildlife Service

- (1) Development consent must not be granted to development in the Alpine Region unless the consent authority has—
  - (a) consulted with the National Parks and Wildlife Service, and
  - (b) considered submissions received from the National Parks and Wildlife Service within the relevant period.
- (2) In this section—

**relevant period** means—

  - (a) 28 days after notice of the development application is given to the National Parks and Wildlife Service, or
  - (b) another period determined by the Planning Secretary.

#### **4.28 Consideration of master plans and other documents**

- (1) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following—
  - (a) the aim and objectives of this Chapter set out in section 4.1,
  - (b) (Repealed)
  - (c) a conservation agreement under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth that applies to the land,
  - (d) the *Geotechnical Policy —Kosciuszko Alpine Resorts* published by the Department in November 2003,
  - (e) for development in the Perisher Range Alpine Resort—
    - (i) the *Perisher Range Resorts Master Plan*, published by the National Parks and Wildlife Service in November 2001, and
    - (ii) the *Perisher Blue Ski Resort Ski Slope Master Plan* adopted by the National Parks and Wildlife Service in May 2002.
- (2) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider—
  - (a) a master plan approved by the Minister under section 4.26 that applies to the land, or
  - (b) if a master plan has not been approved—a draft master plan prepared under section 4.26 that is intended to apply to the land and has been published on the NSW planning portal.

#### **4.29 Consideration of environmental, geotechnical and other matters**

- (1) In deciding whether to grant development consent to development in the Alpine Region, the consent authority must consider the following—
  - (a) measures proposed to address geotechnical issues relating to the development,
  - (b) the extent to which the development will achieve an appropriate balance between—
    - (i) the conservation of the natural environment, and
    - (ii) taking measures to mitigate environmental hazards, including geotechnical hazards, bush fires and flooding,
  - (c) the visual impact of the proposed development, particularly when viewed from the land identified as the Main Range Management Unit in the *Kosciuszko National*

*Park Plan of Management,*

- (d) the cumulative impacts of development and resource use on the environment of the Alpine Subregion in which the development is carried out,
  - (e) the capacity of existing infrastructure and services for transport to and within the Alpine Region to deal with additional usage generated by the development, including in peak periods,
  - (f) the capacity of existing waste or resource management facilities to deal with additional waste generated by the development, including in peak periods.
- (2) For development involving earthworks or stormwater draining works, the consent authority must also consider measures to mitigate adverse impacts associated with the works.
- (3) For development the consent authority considers will significantly alter the character of an Alpine Subregion, the consent authority must also consider—
- (a) the existing character of the site and immediate surroundings, and
  - (b) how the development will relate to the Alpine Subregion.

#### **4.30 Kosciuszko National Park Plan of Management**

- (1) Development consent may be granted to development in the Alpine Region even if the application has not established that the development is consistent with the *Kosciuszko National Park Plan of Management*.
- (2) This section does not prevent the consent authority from refusing to grant consent to development on the basis that the development is not consistent with the *Kosciuszko National Park Plan of Management*.

**Note—**

Under the [National Parks and Wildlife Act 1974](#), section 81(4), operations on land to which a plan of management under that Act applies may be undertaken only if they are undertaken in accordance with the plan of management, despite another Act or an instrument made under an Act.

## **Part 4.6 Miscellaneous**

### **4.31 Savings**

- (1) A development application lodged, but not finally determined, before [State Environmental Planning Policy \(Precincts—Regional\) Amendment \(Kosciuszko Alpine Region\) 2022](#) commences must be determined as if that Policy had not commenced.
- (2) A development application or an application for a complying development certificate made, but not finally determined, before the commencement of *State Environmental*

*Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

## **Chapter 5 Gosford city centre**

### **Part 5.1 Preliminary**

#### **Note.**

The *Standard Instrument (Local Environmental Plans) Order 2006* sets out matters to be included in standard local environmental plans. While this Chapter is not a standard local environmental plan, it is generally consistent with standard plans. A number of clauses from the *Standard Instrument (Local Environmental Plans) Order 2006* have been included in this Chapter and the clause numbering from that order has been retained. This means that the numbering in this Chapter may contain some gaps. Additional provisions have been inserted and are numbered accordingly.

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

The aims of this Chapter are as follows—

- (a) to promote the economic and social revitalisation of Gosford City Centre,
- (b) to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments,
- (c) to protect and enhance the vitality, identity and diversity of Gosford City Centre,
- (d) to promote employment, residential, recreational and tourism opportunities in Gosford City Centre,
- (e) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes,
- (f) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations,
- (g) to help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike,
- (h) to preserve and enhance solar access to key public open spaces,
- (i) to provide direct, convenient and safe pedestrian links between Gosford City Centre and the Gosford waterfront,
- (j) to ensure that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre.

## 5.2 Land to which Chapter applies

This Chapter applies to the land identified on the [Land Application Map](#).

## 5.3 Definitions

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

## 5.4 Notes

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

## 5.5 Consent authority

The consent authority for the purposes of this Chapter is—

- (a) for development that has an estimated development cost of less than \$10 million—the Council, and
- (b) for development that has an estimated development cost of not less than \$10 million but not more than \$75 million—
  - (i) the Minister for Planning, or
  - (ii) if the development has an estimated development cost of not less than \$40 million and the Council objects to the development—the Independent Planning Commission.

### Note 1.

Development in Gosford City Centre that has an estimated development cost of more than \$75 million is State significant development (see [State Environmental Planning Policy \(Planning Systems\) 2021](#), Schedule 2).

## 5.6 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 Minister or the local plan-making authority 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 made available on the NSW Planning Portal.

### **5.7 Repeal of planning instruments applying to land**

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Chapter applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Chapter applies and to other land cease to apply to the land to which this Chapter applies.

### **5.8 Savings provision relating to development applications**

- (1) If a development application has been made before the commencement of this Chapter in relation to land to which this Chapter applies and the application has not been finally determined before that commencement, the application must be determined as if this Chapter had not commenced.

**Note.**

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

- (2) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.
- (3) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

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

- (1) In the event of an inconsistency between this Chapter and another environmental planning instrument, whether made before or after this Chapter, this Chapter prevails to the extent of the inconsistency.
- (2) Despite subsection (1), *State Environmental Planning Policy (State and Regional Development) 2011* prevails to the extent of any inconsistency between this Chapter and *State Environmental Planning Policy (State and Regional Development) 2011*.



- (3) The following State environmental planning policies (or provisions) do not apply to the land to which this Chapter applies—

*State Environmental Planning Policy No 1—Development Standards*

**5.10 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Chapter or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This section does not apply—
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any biodiversity certification conferred under Part 8 of the *Biodiversity Conservation Act 2016*, or
  - (c) to any private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*, or
  - (d) to any relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or
  - (e) to the relevant provisions of a land management (native vegetation) code (and the necessary mandatory code compliant certificate) with respect to a set aside area under Part 5A of the *Local Land Services Act 2013*, or
  - (f) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (g) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
  - (h) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
  - (i) to any planning agreement within the meaning of Division 7.1 of the Act.
- (3) This section does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 3.16 of the Act, the Governor, before the making of this section, approved of subsections (1)–(3).

## **Part 5.2 Permitted or prohibited development**

### **5.11 Land use zones**

The land use zones under this Chapter are as follows—

#### **Residential Zones**

R1 General Residential

#### **Business Zones**

B3 Commercial Core

B4 Mixed Use

B6 Enterprise Corridor

#### **Special Purpose Zones**

SP2 Infrastructure

#### **Recreation Zones**

RE1 Public Recreation

#### **Waterway Zones**

W2 Recreational Waterways

### **5.12 Zoning of land to which Chapter applies**

For the purposes of this Chapter, land is within the zones shown on the [Land Zoning Map](#).

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

- (1) The Land Use Table at the end of this Part specifies for each zone—
  - (a) the objectives for development, and
  - (b) development that may be carried out without development consent, and
  - (c) development that may be carried out only with development consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Land Use Table at the end of this Part—
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and

(b) a reference to a type of building or other thing does not include (despite any definition in this Chapter) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.

(4) This section is subject to the other provisions of this Chapter.

**Notes.**

- 1 Schedule 5 sets out additional permitted uses for particular land.
- 2 Schedule 6 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act.
- 3 Schedule 7 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Section 5.16 requires consent for subdivision of land.
- 5 Part 5.7 contains other provisions which require consent for particular development.

**5.14 Unzoned land**

- (1) Development may be carried out on unzoned land only with development consent.
- (2) In deciding whether to grant development consent, the consent authority—
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

**5.15 Additional permitted uses for particular land**

- (1) Development on particular land that is described or referred to in Schedule 5 may be carried out—
  - (a) with development consent, or
  - (b) if the Schedule so provides—without development consent,in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This section has effect despite anything to the contrary in the Land Use Table or other provision of this Chapter.

**5.16 Subdivision—consent requirements**

- (1) Land to which this Chapter applies may be subdivided, but only with development consent.

**Notes.**

1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Chapter or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.

2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

**Note.**

The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

### 5.17 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

**Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Chapter or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

### 5.18 Temporary use of land

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Chapter, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
- (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Chapter and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

## Part 5.3 Land Use Table

### Note—

State environmental planning policies, including the following, may be relevant to development on land to which this Chapter applies—

*State Environmental Planning Policy (Housing) 2021*

*State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2—relating to infrastructure facilities, including air transport, correction, education, electricity generating works and solar energy systems, health services, ports, railways, roads, waste management and water supply systems

*State Environmental Planning Policy (Resources and Energy) 2021*, Chapter 2

*State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 3

*State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3

*State Environmental Planning Policy (Primary Production) 2021*, Chapter 2

## Zone R1 General Residential

### 1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To promote best practice in the design of multi dwelling housing and other similar types of development.
- To ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.

### 2 Permitted without consent

Home occupations; Recreation areas

### **3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Car parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Group homes; Home-based child care; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone B3 Commercial Core**

### **1 Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of Gosford City Centre as the regional business, retail and cultural centre of the Central Coast.
- To encourage a diverse and compatible range of activities, including commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities and social, education and health services.
- To provide for residential uses if compatible with neighbouring uses and employment opportunities.
- To create opportunities to improve the public domain and pedestrian links throughout Gosford City Centre.
- To provide for the retention and creation of view corridors.
- To protect and enhance the scenic quality and character of Gosford City Centre.

## **2 Permitted without consent**

Nil

## **3 Permitted with consent**

Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Shop top housing; Any other development not specified in item 2 or 4

## **4 Prohibited**

Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Service stations; Sewage treatment plants; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wholesale supplies

## **Zone B4 Mixed Use**

### **1 Objectives of zone**

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage a diverse and compatible range of activities, including

commercial and retail development, cultural and entertainment facilities, tourism, leisure and recreation facilities, social, education and health services and higher density residential development.

- To allow development in Point Frederick to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront.
- To create opportunities to improve the public domain and pedestrian links of Gosford City Centre.
- To enliven the Gosford waterfront by allowing a wide range of commercial, retail and residential activities immediately adjacent to it and increase opportunities for more interaction between public and private domains.
- To protect and enhance the scenic qualities and character of Gosford City Centre.

## **2 Permitted without consent**

Nil

## **3 Permitted with consent**

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

## **4 Prohibited**

Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Electricity generating works; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Group homes (transitional); Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations (sex



services); Hospitals; Hostels; Industrial retail outlets; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Resource recovery facilities; Rural industries; Rural workers' dwellings; Secondary dwellings; Semi-detached dwellings; Service stations; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wholesale supplies

## **Zone B6 Enterprise Corridor**

### **1 Objectives of zone**

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Business premises; Community facilities; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Multi dwelling housing; Passenger transport facilities; Plant nurseries; Recreation facilities (indoor); Residential flat buildings; Roads; Shop top housing; Warehouse or distribution centres; Any other development not specified in item 2 or 4

### **4 Prohibited**

Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Environmental protection works; Exhibition homes;

Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations (sex services); Industries; Information and education facilities; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Rural supplies; Service stations; Sewage treatment plants; Storage premises; Tourist and visitor accommodation; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems

## **Zone SP2 Infrastructure**

### **1 Objectives of zone**

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

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Roads; The purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RE1 Public Recreation**

### **1 Objectives of zone**

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

- To protect and enhance the natural environment for recreational purposes.
- To identify areas suitable for development for recreation, leisure and cultural purposes.
- To ensure that development is compatible with the desired future character of the zone.

## **2 Permitted without consent**

Environmental facilities; Environmental protection works

## **3 Permitted with consent**

Camping grounds; Car parks; Caravan parks; Centre-based child care facilities; Community facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Water recreation structures

## **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone W2 Recreational Waterways**

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

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

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

Environmental facilities; Environmental protection works; Moorings

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

Boat sheds; Car parks; Food and drink premises; Function centres; Kiosks; Marinas; Markets; Mooring pens; Water recreation structures

#### **4 Prohibited**

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

## Part 5.4 Exempt and complying development

### 5.19 Exempt development

- (1) The objective of this section is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Schedule 6 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development, the development—
  - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia* or, if there are no such relevant provisions, must be structurally adequate, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be designated development, and
  - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development only if—
  - (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (5) To be exempt development, the development must—
  - (a) be installed in accordance with the manufacturer's specifications, if applicable, and
  - (b) not involve the removal, pruning or other clearing of vegetation that requires a permit, development consent or other approval unless it is undertaken in accordance with a permit, development consent or other approval.

**Note.**

See [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#) and Part 5A of the [Local Land Services Act 2013](#).

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

## 5.20 Complying development

- (1) The objective of this section is to identify development as complying development.
- (2) Development specified in Part 1 of Schedule 7 that is carried out in compliance with—
  - (a) the development standards specified in relation to that development, and
  - (b) the requirements of this Part,is complying development.

### Note.

See also section 5.35(3) which provides that the conversion of fire alarms is complying development in certain circumstances.

- (3) To be complying development, the development must—
  - (a) be permissible, with development consent, in the zone in which it is carried out, and
  - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (4) A complying development certificate for development specified in Part 1 of Schedule 7 is subject to the conditions (if any) set out or referred to in Part 2 of that Schedule.
- (5) A heading to an item in Schedule 7 is part of that Schedule.

## 5.21 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this section—

**environmentally sensitive area for exempt or complying development** means any of the following—

- (a) the coastal waters of the State,
- (b) a coastal lake,
- (c) land within the coastal wetlands and littoral rainforests area (within the meaning of the *Coastal Management Act 2016*),
- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or

as a marine park under the [Marine Parks Act 1997](#),

- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved under the [National Parks and Wildlife Act 1974](#) or land acquired under Part 11 of that Act,
- (i) land reserved or dedicated under the [Crown Land Management Act 2016](#) for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land that is a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#) or declared critical habitat under Part 7A of the [Fisheries Management Act 1994](#).

## **Part 5.5 Principal development standards**

### **5.22 Minimum subdivision lot size**

- (1) The objectives of this section are as follows—
  - (a) to reflect State, regional and local planning strategies relating to the provision of various sizes of land,
  - (b) to ensure that the subdivision of land is compatible with the desired future character of the area,
  - (c) to promote the ecologically, socially and economically sustainable subdivision of land,
  - (d) to ensure that the creation of parcels of land for development occurs in a manner that protects the physical characteristics of the land, does not create potential physical hazard or amenity issues for neighbours, can be satisfactorily serviced and will, through its potential cumulative effects, not create capacity problems for existing infrastructure.
- (2) This section applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Chapter.
- (3) The size of any lot resulting from a subdivision of land to which this section applies is

not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

- (4) This section does not apply in relation to the subdivision of any land—
  - (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or
  - (b) by any kind of subdivision under the [Community Land Development Act 1989](#).

### **5.23 Minimum subdivision lot size for community title schemes**

- (1) The objectives of this section are as follows—
  - (a) to ensure that land to which this section applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This section applies to a subdivision (being a subdivision that requires development consent) under the [Community Land Development Act 1989](#) of land in any of the following zones—
  - (a) Zone RE1 Public Recreation,  
but does not apply to a subdivision by the registration of a strata plan.
- (3) The size of any lot resulting from a subdivision of land to which this section applies (other than any lot comprising association property within the meaning of the [Community Land Development Act 1989](#)) is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
- (4) This section applies despite section 5.22.

### **5.24 Minimum subdivision lot size for strata plan schemes in certain rural, residential, recreation and environment protection zones**

- (1) The objective of this section is to ensure that land to which this section applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This section applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation—
  - (a) Zone RE1 Public Recreation.
- (3) The size of any lot resulting from a subdivision of land to which this section applies for a strata plan scheme (other than any lot comprising common property within the meaning of the [Strata Schemes \(Freehold Development\) Act 1973](#) or [Strata Schemes \(Leasehold Development\) Act 1986](#)) is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

**Note.**

Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that strata subdivision of a building in certain circumstances is specified complying development.

### **5.25 Height of buildings**

- (1) The objectives of this section are as follows—
  - (a) to establish maximum height limits for buildings,
  - (b) to permit building heights that encourage high quality urban form,
  - (c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,
  - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,
  - (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,
  - (f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

**Note.**

Sections 5.28, 5.33, 5.44 and 5.46 provide exceptions to the maximum height shown for the relevant land on the [Height of Buildings Map](#) in certain circumstances.

### **5.26 Floor space ratio**

- (1) The objectives of this section are as follows—
  - (a) to establish standards for the maximum development density and intensity of land use,
  - (b) to control building density and bulk in relation to site area in order to achieve the desired future character for different locations,
  - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
  - (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
  - (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,



- (f) to facilitate design excellence by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design,
  - (g) to ensure that the floor space ratio of buildings on land in Zone R1 General Residential reflects Council’s desired building envelope,
  - (h) to encourage lot amalgamation and new development forms in Zone R1 General Residential with car parking below ground level.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

**Note.**

Sections 5.28, 5.46 and 5.55 provide exceptions to the maximum floor space ratio shown for the relevant land on the [Floor Space Ratio Map](#) in certain circumstances.

### 5.27 Calculation of floor space ratio and site area

- (1) **Objectives** The objectives of this section are as follows—
- (a) to define **floor space ratio**,
  - (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to—
    - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
    - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
    - (iii) require community land and public places to be dealt with separately.
- (2) **Definition of “floor space ratio”** The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.
- (3) **Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be—
- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
  - (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

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

- (4) **Exclusions from site area** The following land must be excluded from the site area—

- (a) land on which the proposed development is prohibited, whether under this Chapter or any other law,
  - (b) community land or a public place (except as provided by subsection (7)).
- (5) **Strata subdivisions** The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.
- (6) **Only significant development to be included** The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.
- (7) **Certain public land to be separately considered** For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.
- (8) **Existing buildings** The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.
- (9) **Covenants to prevent “double dipping”** When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.
- (10) **Covenants affect consolidated sites** If—
- (a) a covenant of the kind referred to in subsection (9) applies to any land (**affected land**), and
  - (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,
- the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Chapter is reduced by the quantity of floor space area the covenant prevents being created on the affected land.
- (11) **Definition** In this section, **public place** has the same meaning as it has in the [Local](#)

*Government Act 1993.*

**5.28 Exceptions to development standards**

- (1) The objectives of this section are as follows—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subsection (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this section for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum

area specified for such a lot by a development standard.

**Note.**

When this Chapter was made it did not include all of these zones.

- (7) (Repealed)
- (8) This section does not allow development consent to be granted for development that would contravene any of the following—
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
  - (c) section 5.32,
  - (ca) sections 5.46(5), 5.52 and 5.53.

## Part 5.6 Miscellaneous provisions

### 5.29 Relevant acquisition authority

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

**Note.**

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

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

**Type of land shown on Map**

**Authority of the State**

Zone RE1 Public Recreation and marked  
“Local open space”

Council

Zone RE1 Public Recreation and marked “Regional open space”	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked “Classified road”	Transport for NSW
Zone SP2 Infrastructure and marked “Local road widening”	Council

- (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.

**Note.**

If land, other than land specified in the Table to subsection (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to enable the designation of the acquiring authority under this section. Pending the designation of the acquiring authority for the land, the acquiring authority is to be the authority determined by order of the Minister for Planning and Infrastructure (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

### 5.30 Classification and reclassification of public land

- (1) The objective of this section is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the [Local Government Act 1993](#).

**Note.**

Under the [Local Government Act 1993](#), “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the [Local Government Act 1993](#). Section 30 of that Act enables this Chapter to discharge trusts on which public reserves are held if the land is reclassified under this Chapter as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 8 is classified, or reclassified, as operational land for the purposes of the [Local Government Act 1993](#).
- (3) The public land described in Part 3 of Schedule 8 is classified, or reclassified, as community land for the purposes of the [Local Government Act 1993](#).
- (4) The public land described in Part 1 of Schedule 8—
- (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 8, to the extent (if any) that it is a

public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except—

- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 8, and
- (b) any reservations that except land out of the Crown grant relating to the land, and
- (c) reservations of minerals (within the meaning of the *Crown Land Management Act 2016*).

**Note.**

In accordance with section 30(2) of the *Local Government Act 1993*, the approval of the Governor to subsection (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 8.

**5.31 Development near zone boundaries**

- (1) The objective of this section is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This section applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 10 metres.
- (3) This section does not apply to—
  - (a) land in Zone RE1 Public Recreation, or
  - (a1) land in Zone B3 Commercial Core or Zone W2 Recreational Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Chapter relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this section applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—
  - (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

- (5) This section does not prescribe a development standard that may be varied under this Chapter.

### 5.32 Controls relating to miscellaneous permissible uses

- (1) **Bed and breakfast accommodation** If development for the purposes of bed and breakfast accommodation is permitted under this Chapter, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

**Note.**

Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.

- (2) **Home businesses** If development for the purposes of a home business is permitted under this Chapter, the carrying on of the business must not involve the use of more than 30 square metres of floor area.
- (3) **Home industries** If development for the purposes of a home industry is permitted under this Chapter, the carrying on of the home industry must not involve the use of more than 30 square metres of floor area.
- (4) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted under this Chapter, the retail floor area must not exceed—
- (a) 10% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or
  - (b) 400 square metres,
- whichever is the lesser.
- (5) **Farm stay accommodation** If development for the purposes of farm stay accommodation is permitted under this Chapter, the accommodation that is provided to guests must consist of no more than 4 bedrooms.
- (6) **Kiosks** If development for the purposes of a kiosk is permitted under this Chapter, the gross floor area must not exceed 50 square metres.
- (7) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Chapter, the retail floor area must not exceed 100 square metres.
- (8) **Neighbourhood supermarkets** If development for the purposes of a neighbourhood supermarket is permitted under this Chapter, the gross floor area must not exceed 1,000 square metres.
- (9) **Roadside stalls** If development for the purposes of a roadside stall is permitted under this Chapter, the gross floor area must not exceed 30 square metres.

- (10) **Secondary dwellings** If development for the purposes of a secondary dwelling is permitted under this Chapter, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—
- (a) 60 square metres,
  - (b) 20% of the total floor area of the principal dwelling.
- (11) **Artisan food and drink industry exclusion** If development for the purposes of an artisan food and drink industry is permitted under this Chapter in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—
- (a) 10% of the gross floor area of the industry, or
  - (b) 400 square metres,
- whichever is the lesser.

### 5.33 Architectural roof features

- (1) The objectives of this section are as follows—
- (a) to permit variations to maximum building height standards for roof features of visual interest,
  - (b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by section 5.25 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that—
- (a) the architectural roof feature—
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.



### 5.34 Development below mean high water mark

- (1) The objective of this section is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

### 5.35 Conversion of fire alarms

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—

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

### 5.36 Heritage conservation

**Note.**

Heritage items (if any) are listed and described in Schedule 9. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 9.

(1) **Objectives** The objectives of this section are as follows—

- (a) to conserve the environmental heritage of Gosford,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) **Requirement for consent** Development consent is required for any of the following—

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

area, or

- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) **When consent not required** However, development consent under this section is not required if—

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—

- (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
- (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development—

- (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
- (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this section in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subsection applies regardless of whether a heritage management document is prepared under subsection (5) or a heritage conservation management plan is submitted under subsection (6).

(5) **Heritage assessment** The consent authority may, before granting consent to any development—

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or

- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this section.
- (7) **Archaeological sites** The consent authority must, before granting consent under this section to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—
- (a) notify the Heritage Council of its intention to grant consent, and
  - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this section to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
  - (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.
- (9) **Demolition of nominated State heritage items** The consent authority must, before granting consent under this section for the demolition of a nominated State heritage item—
- (a) notify the Heritage Council about the application, and
  - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (10) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Chapter, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### **5.37 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the [Rural Fires Act 1997](#) may be carried out on any land without development consent.

**Note.**

The [Rural Fires Act 1997](#) also makes provision relating to the carrying out of development on bush fire prone land.

### **5.38 Infrastructure development and use of existing buildings of the Crown**

- (1) This Chapter does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.
- (2) This Chapter does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **Part 5.7 Additional local provisions—generally**

### **5.39 Acid sulfate soils**

- (1) The objective of this section is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subsection on land shown on the [Acid Sulfate Soils Map](#) as being of the class specified for those works.

<b>Class of land</b>	<b>Works</b>
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this section for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.
- (4) Despite subsection (2), development consent is not required under this section for the carrying out of works if—
- (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subsection (2), development consent is not required under this section for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—
- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine maintenance work, being the periodic inspection, cleaning, repair or

replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),

(c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subsection (2), development consent is not required under this section to carry out any works if—

(a) the works involve the disturbance of less than 1 tonne of soil, and

(b) the works are not likely to lower the watertable.

#### **5.40 Flood planning**

(1) The objectives of this section are as follows—

(a) to minimise the flood risk to life and property associated with the use of land,

(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,

(c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This section applies to land at or below the flood planning level.

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

(a) is compatible with the flood hazard of the land, and

(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

(c) incorporates appropriate measures to manage risk to life from flood, and

(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this section has the same meaning as it has in the Flood Risk Management Manual, unless it is otherwise defined in this section.

#### **5.41 Floodplain risk management**

(1) The objectives of this section are as follows—

(a) in relation to development with particular evacuation or emergency response

issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,

- (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.
- (2) This section applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.
- (3) Development consent must not be granted to development for the following purposes on land to which this section applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land—
- (a) caravan parks,
  - (b) correctional facilities,
  - (c) emergency services facilities,
  - (d) group homes,
  - (e) hospitals,
  - (f) residential care facilities,
  - (g) tourist and visitor accommodation.
- (4) A word or expression used in this section has the same meaning as it has in the Flood Risk Management Manual, unless it is otherwise defined in this section.

#### **5.42 Location of sex services premises**

- (1) The objective of this section is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following—
- (a) whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land—
    - (i) in Zone R1 General Residential, Zone R2 Low Density Residential or Zone RE1 Public Recreation, or
    - (ii) used for the purposes of a centre-based child care facility, a community facility, a school or a place of public worship,



- (b) the impact of the proposed development and its hours of operation on any place likely to be regularly frequented by children—
  - (i) that adjoins the proposed development, or
  - (ii) that can be viewed from the proposed development, or
  - (iii) from which a person can view the proposed development.
- (3) Despite subsection (2), if the sex services premises are proposed to be located in a building that contains one or more dwellings, development consent must not be granted to development for the purpose of sex services premises unless the sex services premises can only be accessed by a separate street entrance that does not provide access to the rest of the building.

## **Part 5.8 Gosford City Centre**

### **5.43 Minimum building street frontage in Zone B6**

- (1) The objective of this section is to encourage the amalgamation of smaller lots to achieve the efficient development of land and design of buildings.
- (2) Development consent must not be granted to the erection of a building on land in Zone B6 Enterprise Corridor unless the building will have a street frontage of at least 24 metres.
- (3) Despite subsection (2), development consent may be granted for the erection of a building on land in Zone B6 Enterprise Corridor if the consent authority is satisfied that—
  - (a) due to the physical constraints of the land or adjoining land, it is not possible for the building to have a street frontage of at least 24 metres, and
  - (b) the development is consistent with the aims of this Chapter.

### **5.44 Building height on Mann Street**

Development consent must not be granted to the erection of a building on land identified as “Mann Street” on the [Additional Provisions Map](#) unless the building height will not exceed 3 storeys at the building’s street frontage to Mann Street.

### **5.45 Design excellence**

- (1) The objective of this section is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Gosford City Centre.
- (2) This section applies to development involving the erection of a new building or external alterations to an existing building.

- (3) Development consent must not be granted for development to which this section applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—
  - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
  - (c) whether the development is consistent with the objectives of sections 5.52 and 5.53,
  - (d) any relevant requirements of applicable development control plans,
  - (e) how the development addresses the following matters—
    - (i) the suitability of the land for development,
    - (ii) existing and proposed uses and use mix,
    - (iii) heritage issues and streetscape constraints,
    - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
    - (v) bulk, massing and modulation of buildings,
    - (vi) street frontage heights,
    - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
    - (viii) the achievement of the principles of ecologically sustainable development,
    - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
    - (x) the impact on, and any proposed improvements to, the public domain.

#### **5.46 Exceptions to height and floor space in Zones B3, B4 and B6**

- (1) This section applies to land in the following zones—
  - (a) Zone B3 Commercial Core,
  - (b) Zone B4 Mixed Use,

- (c) Zone B6 Enterprise Corridor.
- (2) Development consent may be granted to development on land to which this section applies that results in a building with a floor space ratio that exceeds the floor space ratio shown for the land on the [Floor Space Ratio Map](#) if—
- (a) the site area of the development is less than 2,800 square metres or the building has a street frontage of 36 metres or less, and
  - (b) the floor space ratio does not exceed the ratio calculated in accordance with  $2 + (X \times 0.02):1$ , where X is the percentage of the gross floor area of the building that is used for a purpose other than residential purposes.
- (3) Development consent may be granted to development on land to which this section applies that results in a building with a height that exceeds the maximum height shown for the land on the [Height of Buildings Map](#), by an amount to be determined by the consent authority, if—
- (a) the site area of the development is at least 2,800 square metres but less than 5,600 square metres, or the building will have a street frontage of at least 36 metres, and
  - (b) a design review panel reviews the development, and
  - (c) the consent authority takes into account the findings of the design review panel, and
  - (d) the consent authority is satisfied with the amount of floor space that will be provided for the purposes of commercial premises, and
  - (e) the consent authority is satisfied that the building meets or exceeds minimum building sustainability and environmental performance standards.
- (4) Development consent may be granted to development that results in a building with a height that exceeds the maximum height shown for the land on the [Height of Buildings Map](#), or a floor space ratio that exceeds the floor space ratio shown for the land on the [Floor Space Ratio Map](#), or both, by an amount to be determined by the consent authority, if—
- (a) the site area of the development is at least 5,600 square metres, and
  - (b) a design review panel reviews the development, and
  - (c) if required by the design review panel, a competitive design process is held in relation to the development, and
  - (d) the consent authority takes into account the findings of the design review panel and, if held, the results of the competitive design process, and

- (e) the consent authority is satisfied with the amount of floor space that will be provided for the purposes of commercial premises, and
  - (f) the consent authority is satisfied that the building meets or exceeds minimum building sustainability and environmental performance standards.
- (5) Despite any other provision of this Chapter and except as otherwise provided by this section, development on land to which this section applies on a site having an area of 2,800 square metres or more or a street frontage of 36 metres or more (or both) must not result in either or both of the following—
- (a) a building with a height that exceeds the maximum height shown for the land on the [Height of Buildings Map](#),
  - (b) a building with a floor space ratio that exceeds the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

- (6) In this section—

**competitive design process** means a design competition held in accordance with the *Design Competition Guidelines* published by the Department in September 2023.

**design review panel** means a panel of 3 or more persons established by the consent authority.

#### 5.47 Car parking in Zones B3 and B4

- (1) Development consent must not be granted for development on land in Zone B3 Commercial Core or Zone B4 Mixed Use that involves the erection of a new building or an alteration or addition to an existing building that increases the gross floor area of the building unless—
- (a) at least 1 car parking space is provided for every 75 square metres of the gross floor area of the building that is to be used for commercial activities, and
  - (b) at least 1 car parking space is provided for every 40 square metres of the gross floor area of the building that is to be used for the purpose of retail premises.
- (2) Car parking that is required to be provided must be provided on site unless the consent authority is satisfied that the provision of car parking is adequately provided elsewhere.
- (3) In this section, a building's **gross floor area** includes—
- (a) any area of the building that is used for car parking that is at or above street level, unless the car parking is not visible from the street and is a condition of a development consent, and
  - (b) any area of the building that is used for car parking below ground level (existing),

unless the car parking is a condition of a development consent,  
but does not include any Council-owned public car parking.

- (4) In this section, **commercial activities**, in relation to the use of a building, means the use of the building for the purposes of office premises, business premises, hotel or motel accommodation (but not hotel or motel accommodation that is subdivided under a strata scheme), food and drink premises or other like uses or a combination of such uses.

#### **5.48 Active street frontages**

- (1) Development consent must not be granted to the erection of a building, or the change of use of a building, on land identified as “Active street frontage” on the [Active Street Frontages Map](#) unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
- (2) Despite subsection (1), an active street frontage is not required for any part of a building that is used for any of the following—
- (a) entrances and lobbies (including as part of mixed use development),
  - (b) access for fire services,
  - (c) access for a back street or service lane,
  - (d) vehicular access.

#### **5.49 Non-residential ground and first floor of buildings in Zone B3**

Development consent must not be granted to the erection of a building, or the change of use of a building, on land in Zone B3 Commercial Core unless the consent authority is satisfied that the ground floor and first floor of the building will not be used for the purpose of residential accommodation.

#### **5.50 Converting serviced apartments to residential flat buildings**

- (1) The objective of this section is to prevent substandard residential accommodation occurring through the conversion of serviced apartments to residential flat buildings.
- (2) Development consent must not be granted for the strata subdivision of a building that is or has been used for serviced apartments for use as a residential flat building unless the consent authority has considered the following in relation to the residential flat building—
- (a) the design principles for residential apartment development within the meaning of [State Environmental Planning Policy \(Housing\) 2021](#),
  - (b) the Apartment Design Guide within the meaning of that policy.

### 5.51 Residential flat buildings in Zone B6

- (1) The objective of this section is to ensure that development for residential flat buildings on land in Zone B6 Enterprise Corridor forms part of mixed use developments and does not impact on the activation of street frontages.
- (2) This section applies to land in Zone B6 Enterprise Corridor.
- (3) Development consent must not be granted for development for the purpose of a residential flat building on land to which this section applies unless the consent authority is satisfied that—
  - (a) the residential flat building is part of a mixed use development, and
  - (b) no part of the ground floor of the building that is facing a street is used for residential accommodation.

### 5.52 Solar access to key public open spaces

- (1) The objectives of this section are—
  - (a) to protect and enhance sun access to key public open spaces, and
  - (b) to prevent adverse cumulative impacts of development.
- (2) Development consent may be granted to development if the development will not result in—
  - (a) any more than 40 per cent of Kibble Park receiving less than 4 hours of sunlight between 9 am and 3 pm at the winter solstice, and
  - (b) any more than 30 per cent of Leagues Club Field receiving less than 4 hours of sunlight between 9 am and 3 pm at the winter solstice.

- (3) In this section—

**Kibble Park** means the land identified as “Kibble Park” on the [Additional Provisions Map](#).

**Leagues Club Field** means the land identified as “Leagues Club Field” on the [Additional Provisions Map](#).

### 5.53 Key vistas and view corridors

- (1) The objective of this section is to protect and enhance key vistas and view corridors in Gosford City Centre.
- (2) Development consent must not be granted to development unless the consent authority is satisfied that the development is consistent with the objectives of this section.

### 5.54 Community infrastructure

- (1) Development may be carried out without development consent on land to which this Chapter applies, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development by or on behalf of—
  - (a) the council, or
  - (b) the Central Coast Regional Development Corporation (constituted under the *Growth Centres (Development Corporations) Act 1974*).
- (2) Subsection (1) does not apply to the following development—
  - (a) the erection of a class 1–9 building under the *Building Code of Australia*,
  - (b) development that is not exempt development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 and has an estimated development cost of more than \$1,000,000.

### 5.55 Floor space ratio in Zone R1

- (1) This section applies to land in Zone R1 General Residential.
- (2) Despite section 5.26, the maximum floor space ratio for a building that has a street frontage of at least 24 metres is—
  - (a) if the building is on a site area of at least 1,000 square metres, but less than 1,500 square metres—
    - (i) if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2.25:1—2:1, or
    - (ii) if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2:1, but less than 2.25:1—1.5:1, or
    - (iii) in any other case—3:1, or
  - (b) if the building is on a site area of at least 1,500 square metres, but less than 2,000 square metres—
    - (i) if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2.25:1—2:1, or
    - (ii) if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2:1, but less than 2.25:1—1.5:1, or
    - (iii) in any other case—3.5:1, or
  - (c) if the building is on a site area of at least 2,000 square metres, but less than 2,500

square metres—

(i) if the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) is at least 2.25:1—2:1, or

(ii) in any other case—4:1.

(3) If a building for which the maximum floor space ratio on the [Floor Space Ratio Map](#) is as specified in Column 1 of the Table to this subsection—

(a) is on a site area of less than 1,000 square metres, or

(b) has no street frontage greater than 24 metres,

the maximum floor space ratio for the building is the ratio specified opposite that ratio in Column 2 of that Table.

<b>Column 1</b>	<b>Column 2</b>
2:1 or less	0.75:1
> 2:1	1:1

## Appendix 1 State significant precinct—Kings Forest site

section 2.7

### 1 Definitions

In this Appendix—

**agricultural buffer** means an area within the Kings Forest site indicated by distinctive marking as “Agricultural Buffer—150m” on the [Land Zoning Map](#).

**ecological buffer** means an area within the Kings Forest site indicated by distinctive marking as “Ecological Buffer—50m” on the [Land Zoning Map](#).

**Kings Forest site** means the land identified on the [Land Application Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Kings Forest Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Kings Forest Land Zoning Map](#).

**native vegetation** has the same meaning as in the [Native Vegetation Act 2003](#).

### 3 Application of Appendix

(1) Subject to subsections (2) and (3), this Appendix applies with respect to development within the Kings Forest site and so applies whether or not the development is a



transitional Part 3A project.

- (2) This Appendix does not apply to the land comprising Lot 19, DP 112061 unless and until that land has been vacant for one continuous period of 12 months, being a period that commences on or after the commencement of this Appendix.
- (3) Nothing in this Appendix applies to or with respect to development for the purposes of a public utility undertaking.

#### **4 Land use zones and objectives**

- (1) For the purposes of Chapter 2, land within the Kings Forest site is in a zone specified below if the land is shown on the [Land Zoning Map](#) as being within that zone—
  - (a) Zone 2 (c) Urban Expansion,
  - (b) Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests),
  - (c) Zone 7 (l) Environmental Protection (Habitat).
- (2) Subject to the other provisions of this Appendix, the provisions of [Tweed Local Environmental Plan 2000](#), as in force at the commencement of this section, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of Chapter 2.
- (3) The consent authority must have regard to the objectives for development in a zone within the Kings Forest site when determining a development application in respect of land within that zone.

#### **5 Zone 2 (c)**

- (1) **Subdivision** Subdivision of land within Zone 2 (c) is permitted with consent regardless of the size of each allotment to be created by the subdivision.
- (2) **Dwelling houses** Development for the purposes of a dwelling house is permitted with consent on land within Zone 2 (c) regardless of the size of the allotment on which the house is to be located.

#### **6 Zones 7 (a) and 7 (l)**

- (1) **Subdivision that is permitted** Subdivision of land within Zone 7 (a) or 7 (l) is permitted with consent if the subdivision is for one or more of the following purposes—
  - (a) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (b) a minor realignment of boundaries to reflect the zone boundaries, being a realignment that does not involve the creation of a greater number of lots.

- (2) **Other subdivision** Subdivision of land within Zone 7 (a) or 7 (l) for any other purpose is prohibited.
- (3) **Temporary development** The consent authority must not consent to development on land within Zone 7 (a) or 7 (l) for which consent may be granted under *Tweed Local Environmental Plan 2000* only because the development is carried out for not more than 14 days, whether consecutive or not, in any one year.
- (4) **Dwelling houses** Development for the purposes of a dwelling house is prohibited on land within Zone 7 (l).
- (5) **Earthworks** Development for the purposes of earthworks is permitted with consent on land within Zone 7 (l), but only if the applicant for consent has demonstrated to the consent authority's satisfaction that—
  - (a) the development is necessary for any one of the following reasons—
    - (i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,
    - (ii) it meets an identified urgent community need,
    - (iii) it comprises a major employment generator, and
  - (b) there is no other appropriate site on which the development is permitted with consent in reasonable proximity, and
  - (c) the development is generally consistent with the scale and character of existing and future lawful development in the immediate area, and
  - (d) the development is consistent with the aims of *Tweed Local Environmental Plan 2000* (to the extent that those aims are consistent with Chapter 2) and at least one of the objectives of Zone 7 (l).

## 7 Ecological buffers

- (1) Consent must not be granted to development on land within an ecological buffer unless the consent authority is satisfied, after considering a detailed environmental assessment, that—
  - (a) the development complies with the objectives for ecological buffers and other provisions of this section, and
  - (b) there is no practicable alternative to siting the development within the buffer.
- (2) The objectives for ecological buffers are—
  - (a) to protect wetlands or areas of particular habitat significance, and

- (b) to restrict development so that, as far as practicable, it does not occur within ecological buffers, and
  - (c) to help ensure that development is designed, sited and managed so as to minimise its impact on the ecological and hydrological functions of ecological buffers, and
  - (d) to encourage the restoration and maintenance of native vegetation and the ecological processes of land within and adjacent to wetlands or areas of particular habitat significance.
- (3) Development on land within an ecological buffer is to—
- (a) incorporate effective measures to manage wetlands or areas of particular habitat significance, and
  - (b) be designed and sited to maintain connectivity of vegetation and minimise vegetation clearing, soil disturbance and alterations to the rate, volume or quality of surface and ground-water flows, and
  - (c) retain and maintain all existing native vegetation outside the area immediately required for the development, and
  - (d) incorporate measures to regenerate native vegetation for all disturbed areas within the buffer, and
  - (e) incorporate appropriate stormwater and erosion control measures to protect the buffer from surface water run-off or other disturbance.
- (4) When considering whether or not there is a practicable alternative to siting development inside an ecological buffer, the consent authority must consider—
- (a) the design, type and site cover of the proposed development, and
  - (b) the physical characteristics of the land on which the development is proposed to be carried out, and
  - (c) the suitability of the land for the proposed development.

## **8 Agricultural buffers**

Consent must not be granted to development on land within an agricultural buffer unless the consent authority has considered the potential impact of the proposed development on agricultural activities on land adjoining the buffer and of those agricultural activities on future occupiers of land within the buffer.

## **9 Complying development**

For the purposes of determining whether development within the Kings Forest site is

complying development, the provisions in *Tweed Development Control Plan No 40* (as adopted by Tweed Shire Council on 6 October 2004) relating to single dwelling houses, or to development ancillary to single dwelling houses, are taken not to apply to the Kings Forest site.

## 10 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the Kings Forest site are as follows—

- (a) in the case of development that is a transitional Part 3A project—Chapter 2 and all other State environmental planning policies otherwise applicable to the land, except clause 4.6 of *Tweed Local Environmental Plan 2014*,
- (b) in the case of all other development—all environmental planning instruments otherwise applicable to the land, except clause 4.6 of *Tweed Local Environmental Plan 2014*, but only to the extent that those instruments are not inconsistent with Chapter 2.

## 11 Infrastructure development and the use of existing buildings of the Crown

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2.
- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## Appendix 2 State significant precinct—Tomago Industrial site

section 2.7

### Part 1 Preliminary

#### 1 Land to which Appendix applies

This Appendix applies to the land identified on the [Land Application Map](#) referred to in this Schedule as the **Tomago Industrial site**.

#### 2 Interpretation

- (1) In this Appendix—

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Tomago Industrial Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Tomago Industrial Land Zoning Map](#).

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Appendix.

### **3 Consent authority**

For the purposes of this Appendix—

- (a) the consent authority for development on land within that part of the Tomago Industrial site that is within Newcastle local government area is the Council of the City of Newcastle, and
- (b) the consent authority for development on land within that part of the Tomago Industrial site that is within Port Stephens local government area is the Council of Port Stephens.

## **Part 3 Provisions applying to development within Tomago Industrial site**

### **6 Application of Part**

This Part applies with respect to any development within the Tomago Industrial site and so applies whether or not the development is a transitional Part 3A project.

### **7 Land use zones**

- (1) For the purposes of Chapter 2, land within the Tomago Industrial site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone—
- (a) Zone IN1 General Industrial,
- (b) Zone SP2 Infrastructure,
- (c) Zone E2 Environmental Conservation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

### **8 Zone IN1 General Industrial**

- (1) The objectives of Zone IN1 General Industrial are as follows—
- (a) to provide for a wide range of industrial, warehouse and related land uses,
- (b) to provide suitable areas for those industries that need to be separated from other land uses,
- (c) to encourage employment opportunities,

- (d) to minimise any adverse effect of industry on other land uses and the environment,
  - (e) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- (2) Development for any of the following purposes is permitted without consent within Zone IN1 General Industrial—
- environmental protection works.
- (3) Development for any of the following purposes is permitted with consent within Zone IN1 General Industrial—
- aquaculture; boat construction facilities; boat repair facilities; boat launching ramps; commercial port facilities; depots; drainage; earthworks; educational establishments; fill; freight transport facilities; hazardous industries; hazardous storage establishments; heavy industries; jetties; light industries; marinas; materials recycling or recovery centres; offensive industries; offensive storage establishments; office premises; signage; truck depots; vehicle body repair workshops; vehicle repair stations; warehouses or distribution centres; waste management facilities.
- (4) Except as otherwise provided by Chapter 2, development is prohibited within Zone IN1 General Industrial unless it is permitted by subsection (2) or (3).

## **9 Zone SP2 Infrastructure**

- (1) The objectives of Zone SP2 Infrastructure are as follows—
- (a) to provide for infrastructure and related land uses,
  - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure,
  - (c) to minimise any adverse effect of infrastructure on other land uses and the environment.
- (2) Development for any of the following purposes is permitted without consent within Zone SP2 Infrastructure—
- environmental protection works.
- (3) Development for any of the following purposes is permitted with consent within Zone SP2 Infrastructure—
- infrastructure (including railways, roads, conveyors, electricity transmission and distribution lines, gas pipelines, water pipelines, stormwater systems, flood management facilities, sewerage systems and telecommunications facilities),

except if it is for the purposes of a public utility undertaking and is carried out by or on behalf of a public authority.

- (4) Except as otherwise provided by Chapter 2, development is prohibited within Zone SP2 Infrastructure unless it is permitted by subsection (2) or (3).

## **10 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without consent within Zone E2 Environmental Conservation—
- environmental protection works.
- (3) Development for any of the following purposes is permitted with consent within Zone E2 Environmental Conservation—
- information and education facility.
- (4) Except as otherwise provided by Chapter 2, development is prohibited within Zone E2 Environmental Conservation unless it is permitted by subsection (2) or (3).

## **11 Public utility undertakings**

- (1) Development for the purposes of public utility undertakings that is carried out on land within the Tomago Industrial site does not require development consent.
- (2) Subsection (1) does not apply to development for which development consent is required by section 9(3).

## **12 Subdivision—consent requirements**

- (1) Land within the Tomago Industrial site may be subdivided, but only with consent.

### **Note.**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies certain subdivision development as exempt development.

## **12A Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

### **Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as

Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

## **12B Temporary use of land**

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of Chapter 2, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with Chapter 2 and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

## **Part 4 Miscellaneous**

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

The only environmental planning instruments that apply, according to their terms, to the Tomago Industrial site are all other State environmental planning policies.

### **14 Notice of development applications to be given to councils**

The Secretary, in respect of an application to carry out development within the Tomago Industrial site that is a transitional Part 3A project, must forward a copy of the application—



- (a) to the Port Stephens Council if the development, or any part of it, is proposed to be carried out in that council's area, or
  - (b) to the Newcastle City Council, if the development, or any part of it, is proposed to be carried out in that council's area,
- or to both councils, as the case may require.

## **16 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Tomago Industrial site to be carried out in accordance with Chapter 2 or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) Nothing in subsection (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this section, the Governor approved of subsections (1) and (2).

### **16A Conversion of fire alarms**

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.

- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—
- private service provider** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

## 17 Infrastructure development and use of existing buildings of the Crown

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.
- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## Appendix 3 State significant precinct—Sandon Point site

section 2.7

### Part 1 Preliminary

#### 1 Land to which Appendix applies

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Appendix as the **Sandon Point site**.

#### 2 Interpretation

- (1) In this Appendix—

**council** means the Wollongong City Council.

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Floor Space Ratio Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Height of Buildings Map](#).

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object shown on the [Heritage Map](#) as a heritage item.

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Land Zoning Map](#).

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

### **3 Consent authority**

The consent authority for development on land within the Sandon Point site, other than development that is a transitional Part 3A project, is the council.

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

The only environmental planning instruments that apply, according to their terms, to land within the Sandon Point site are Chapter 2 and all other State environmental planning policies except [State Environmental Planning Policy \(Coastal Management\) 2018](#).

## **Part 2 Provisions relating to development in Sandon Point site**

### **6 Application of Part**

- (1) This Part applies to development on land within the Sandon Point site, except as provided by subsection (2).
- (2) Sections 8–11, 13, 18–23 and 25 do not apply to development to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Appendix, land within the Sandon Point site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,
- (c) Zone E2 Environmental Conservation.

## **8 Objectives of land use zones to be taken into account**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

## **9 Zone R2 Low Density Residential**

(1) The objectives of Zone R2 Low Density Residential are as follows—

- (a) to provide for the housing needs of the community within a low density residential environment,
- (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
- (c) to minimise the impact of non-residential development on residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic),
- (d) to ensure that development does not destroy, damage or otherwise adversely affect the ability to protect, manage and restore waterways and riparian corridors.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—

environmental protection works; home occupations; roads.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—

bed and breakfast accommodation; boarding houses; car parks; centre-based child care facilities; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; exhibition homes; exhibition villages; filming; group homes; health consulting rooms; home-based child care; home businesses; home industries; hospitals; hostels; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); secondary dwellings; semi-detached dwellings; shop top housing; signage; veterinary hospitals.

(4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subsection (2) or (3).

## **10 Zone R3 Medium Density Residential**

(1) The objectives of Zone R3 Medium Density Residential are as follows—

- (a) to provide for the housing needs of the community within a medium density residential environment,

- (b) to provide a variety of housing types within a medium density residential environment,
  - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (d) to minimise the impact of non-residential development on residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic),
  - (e) to ensure that development does not destroy, damage or otherwise adversely affect the ability to protect, manage and restore waterways and riparian corridors.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential—
- environmental protection works; home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential—
- attached dwellings; backpackers' accommodation; bed and breakfast accommodation; boarding houses; car parks; centre-based child care facilities; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; exhibition homes; exhibition villages; filming; group homes; health consulting rooms; home-based child care; home businesses; hospitals; hostels; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential flat buildings; secondary dwellings; semi-detached dwellings; serviced apartments; shop top housing; signage; veterinary hospitals.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subsection (2) or (3).

## **11 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values,
  - (c) to provide for the conservation and rehabilitation of native vegetation on highly environmentally significant land,

(d) to prevent the clearing of native vegetation.

(2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—

environmental facilities; filming; recreation areas; roads.

(4) Except as otherwise provided by this Appendix, development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation—

business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; service stations; warehouse or distribution centres; any other development not specified in subsection (2) or (3).

## **12 Prohibited development**

Development, other than development that is permitted with or without development consent on land within a zone, is prohibited on land within that zone.

## **13 Subdivision—consent requirements**

(1) A subdivision of land within the Sandon Point site may be carried out only with development consent.

### **Note.**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies certain subdivision development as exempt development.

## **13A Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

### **Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

## **13B Temporary use of land**

(1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

(2) Despite any other provision of Chapter 2, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52

days (whether or not consecutive days) in any period of 12 months.

- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with Chapter 2 and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

#### **14 Height and floor space ratio restrictions**

- (1) The height of a building on any land within the Sandon Point site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2) The maximum floor space ratio of a building on any land within the Sandon Point site is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).
- (3) This section does not apply to development if the Minister, in an approval for a concept plan for the development (whether given before or after the commencement of this section), provides for the construction of a building that exceeds the height or floor space ratio restrictions, or both, set out in subsections (1) and (2).

#### **15 Development in proximity to a rail corridor**

- (1) This section applies to land within the Sandon Point site that—
  - (a) comprises, or is within 60 metres of, an operating railway line or land reserved for the construction of a railway line, and
  - (b) is or is likely to be adversely affected by rail noise or vibration.
- (2) Development must not be undertaken on land to which this section applies unless the

development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

## **16 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the Sandon Point site must not involve the provision of more than 3 bedrooms for accommodation for guests.
- (2) **Home businesses** Development for the purposes of a home business on land within the Sandon Point site must not involve the use of more than 30 square metres of floor area for the carrying on of the business.
- (3) **Home industries** Development for the purposes of a home industry on land within the Sandon Point site must not involve the use of more than 50 square metres of floor area for the carrying on of the light industry.
- (4) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the Sandon Point site must not have a retail floor area that exceeds 100 square metres.
- (5) **Secondary dwellings** Development for the purposes of a secondary dwelling on land within the Sandon Point site must not have a total floor area for the dwelling (excluding any area used for parking) that exceeds whichever of the following is the greater—
  - (a) 60 square metres,
  - (b) 40% of the total floor area of both the self-contained dwelling and the principal dwelling.

## **17 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Sandon Point site, does not apply to that development if the Secretary is satisfied, and issues a certificate to the effect, that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) there are sufficient environmental planning grounds to justify exempting the development from that development standard.
- (2) In deciding whether to issue a certificate, the Secretary must consider—
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and



- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary.

### **18 Exceptions to development standards—other development**

- (1) This section applies to development on land within the Sandon Point site, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this section are—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (4) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

#### **Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (5) The consent authority must keep a record of its assessment carried out under subsection (4).
- (6) (Repealed)
- (7) Development consent must not be granted under this section for a subdivision of land in Zone E2 Environmental Conservation if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(8) (Repealed)

(9) This section does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## **19 Development within the coastal zone**

(1) The objectives of this section are as follows—

(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,

(b) to implement the principles in the *NSW Coastal Policy*, and in particular to—

(i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and

(ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and

(iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and

(iv) recognise and accommodate coastal processes and climate change, and

(v) protect amenity and scenic quality, and

(vi) protect and preserve rock platforms, beach environments and beach amenity, and

(vii) protect and preserve native coastal vegetation, and

(viii) protect and preserve the marine environment, and

(ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

- (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Development consent must not be granted to development on land within the Sandon Point site that is wholly or partly within the coastal zone unless the consent authority has considered—
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to—
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account—
    - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
    - (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore including—
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
  - (e) how biodiversity and ecosystems, including—
    - (i) native coastal vegetation and existing wildlife corridors, and
    - (ii) rock platforms, and
    - (iii) water quality of coastal water bodies, and

- (iv) native fauna and native flora, and their habitats,  
can be conserved, and
  - (f) the effect of coastal processes and coastal hazards and potential impacts,  
including sea level rise—
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on  
the coastal catchment.
- (3) Development consent must not be granted to development on land within the Sandon Point site that is wholly or partly within the coastal zone unless the consent authority is satisfied that—
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

## **20 Architectural roof features**

- (1) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by section 14 may be carried out, but only with consent.
- (2) Development consent must not be granted to any such development unless the consent authority is satisfied that—
  - (a) the architectural roof feature—
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and

- (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

## **20A Conversion of fire alarms**

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—

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

## **21 Preservation of trees or vegetation**

- (1) The objective of this section is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This section applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this section by a development control plan made by the

council.

**Note.**

A development control plan may prescribe the trees or other vegetation to which this section applies by reference to species, size, location or other manner.

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—
  - (a) development consent, or
  - (b) a permit granted by the council.
- (4) The refusal by the council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This section does not apply to a tree or other vegetation that the council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This section does not apply to a tree or other vegetation that the council is satisfied is a risk to human life or property.
- (7) A permit under this section cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation that is or forms part of a heritage item.

**Note.**

As a consequence of this subsection, the activities concerned will require development consent. The heritage provisions of section 22 will be applicable to any such consent.

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

## **22 Heritage conservation**

- (1) Development consent is required for any of the following—
  - (a) demolishing or moving a heritage item,
  - (b) altering a heritage item including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
  - (c) altering a heritage item that is a building by making structural changes to its interior,
  - (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (e) erecting a building on land on which a heritage item is located,
  - (f) subdividing land on which a heritage item is located.
- (2) However, consent under this section is not required if—
  - (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
    - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
    - (ii) would not adversely affect the significance of the heritage item, or
  - (b) the development is in a cemetery or burial ground and the proposed development—
    - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
    - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
  - (c) the development is limited to the removal of a tree or other vegetation that the council is satisfied is a risk to human life or property, or
  - (d) the development is exempt development.

## **23 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Sandon Point site unless the consent authority is satisfied that any public utility

infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

- (2) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this section, **public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage.

#### **24 Infrastructure development and use of existing buildings of the Crown**

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.
- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

#### **25 Relevant acquisition authority**

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

**Note.**

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

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

**Type of land shown on Map**

**Authority of the State**

Nil



**Note 1.**

At the commencement of this Appendix, the [Land Reservation Acquisition Map](#) showed no land for acquisition.

**Note 2.**

If land, other than land specified in the Table to subsection (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this section. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

- (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.

**26 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Sandon Point site to be carried out in accordance with this Appendix or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This section does not apply—
- (a) to a covenant imposed by the council or that the council requires to be imposed, or
  - (b) to any relevant instrument within the meaning of section 13.4 of the [Crown Land Management Act 2016](#), or
  - (c) to any conservation agreement within the meaning of the [National Parks and Wildlife Act 1974](#), or
  - (d) to any Trust agreement within the meaning of the [Nature Conservation Trust Act 2001](#), or
  - (e) to any property vegetation plan within the meaning of the [Native Vegetation Act 2003](#), or
  - (f) to any biobanking agreement within the meaning of Part 7A of the [Threatened Species Conservation Act 1995](#), or
  - (g) to any planning agreement within the meaning of Division 7.1 of the Act.
- (3) This section does not affect the rights or interests of any public authority under any registered instrument.

- (4) Pursuant to section 28 of the Act, the Governor, before the making of this section, approved of subsections (1)–(3).

## **Appendix 4 State significant precinct—Rise Bilambil Heights site**

section 2.7

### **Part 1 Preliminary**

#### **1 Land to which Appendix applies**

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Appendix as the **Rise Bilambil Heights site**.

#### **2 Interpretation**

- (1) In this Appendix—

**council** means the Tweed Shire Council.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights Land Zoning Map](#).

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

#### **3 Consent authority**

The consent authority for development on land within the Rise Bilambil Heights site is the council.

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

The only environmental planning instruments that apply, according to their terms, to land within the Rise Bilambil Heights site are Chapter 2 and all other State environmental planning policies.

## **Part 2 Provisions relating to development in Rise Bilambil Heights site**

### **6 Land use zones**

For the purposes of this Appendix, land within the Rise Bilambil Heights site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone—

- (a) Zone R1 General Residential,
- (b) Zone B4 Mixed Use,
- (c) Zone E2 Environmental Conservation.

### **7 Objectives of land use zones to be taken into account**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

### **8 Zone R1 General Residential**

- (1) The objectives of Zone R1 General Residential are as follows—
  - (a) to provide for the housing needs of the community,
  - (b) to provide for a variety of housing types and densities,
  - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential—
  - environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential—
  - attached dwellings; centre-based child care facilities; community facilities; dwelling houses; educational establishments; environmental facilities; food and drink premises; group homes; health consulting rooms; home businesses; home industries; hostels; kiosks; markets; multi dwelling housing; neighbourhood shops; places of public worship; public administration buildings; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing; shops; tourist and visitor accommodation; water supply systems.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone R1 General Residential unless it is permitted by subsection (2) or (3).

## **9 Zone B4 Mixed Use**

- (1) The objectives of Zone B4 Mixed Use are as follows—
  - (a) to provide a mixture of compatible land uses,
  - (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B4 Mixed Use—

environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use—

business premises; centre-based child care facilities; community facilities; educational establishments; entertainment facilities; food and drink premises; function centres; home businesses; home industries; hostels; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation areas; recreation facilities (indoor); registered clubs; residential flat buildings; retail premises; roads; seniors housing; shop top housing; water supply systems.
- (4) Except as otherwise provided by this Appendix, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subsection (2) or (3).

## **10 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
  - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—

environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—

environmental facilities; roads.
- (4) Except as otherwise provided by this Appendix, development for any of the following

purposes is prohibited on land within Zone E2 Environmental Conservation—

business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subsection (2) or (3).

## **11 Subdivision—consent requirements**

- (1) Land within the Rise Bilambil Heights site may be subdivided, but only with development consent.

**Note.**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies certain subdivision development as exempt development.

### **11A Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

**Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

### **11B Temporary use of land**

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of Chapter 2, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with Chapter 2 and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be

restored to the condition in which it was before the commencement of the use.

- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

## **12 Height of buildings**

- (1) The objectives of this section are as follows—
  - (a) to establish the maximum height for which a building can be designed,
  - (b) to ensure that building height relates to the land's capacity to provide and maintain an appropriate urban character and level of amenity,
  - (c) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,
  - (d) to encourage greater population density in less car-dependent urban areas,
  - (e) to enable a transition in building heights between urban areas comprised of different characteristics,
  - (f) to limit the impact of the height of a building on the existing natural and built environment,
  - (g) to prevent gross overshadowing impacts on the natural and built environment.
- (2) The height of a building on any land within the Rise Bilambil Heights site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (3) This section applies only in relation to development where the Minister has not, in an approval for a concept plan for the development (whether given before or after the commencement of this section) provided for the construction of a building that exceeds the height of building set out in subsection (2).

## **13 Exceptions to development standards**

- (1) This section applies to development on land within the Rise Bilambil Heights site.
- (2) The objectives of this section are—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

- (3) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (4) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (5) The consent authority must keep a record of its assessment carried out under subsection (4).
- (6) (Repealed)
- (7) Development consent must not be granted under this section for a subdivision of land in Zone E2 if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (8) (Repealed)
- (9) This section does not allow development consent to be granted for development that would contravene any of the following—
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

#### **14 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the Rise Bilambil Heights site must not involve the provision of more than 6 bedrooms for accommodation for guests.
- (2) **Farm stay accommodation** Development for the purposes of farm stay accommodation on land within the Rise Bilambil Heights site must not involve the provision of more than 12 bedrooms for accommodation for guests.
- (3) **Home businesses** Development for the purposes of a home business on land within the Rise Bilambil Heights site must not involve the use of more than 40 square metres of floor area for the carrying on of the home business.
- (4) **Home industries** Development for the purposes of a home industry on land within the Rise Bilambil Heights site must not involve the use of more than 60 square metres of floor area for the carrying on of the home industry.
- (5) **Kiosks** Development for the purposes of a kiosk on land within the Rise Bilambil Heights site must not have a gross floor area that exceeds 15 square metres.
- (6) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the Rise Bilambil Heights site must not have a retail floor area that exceeds 300 square metres.
- (7) **Roadside stalls** Development for the purposes of a roadside stall on land within the Rise Bilambil Heights site must not have a gross floor area that exceeds 30 square metres.

#### **15 Arrangements for designated State public infrastructure**

- (1) This section applies to land in Zones R1 General Residential and B4 Mixed Use within the Rise Bilambil Heights site, but does not apply to any such land if the whole or any part of it is in a region within the meaning of the Act, Division 7.1, Subdivision 4.
- (2) The objective of this section is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land to which this section applies to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (3) Land to which this section applies must not be subdivided if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this Appendix, unless the Secretary has certified in writing that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subsection (3) does not apply in relation to—



- (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a previous subdivision of land in accordance with this section, or
  - (c) any lot that is proposed to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (5) In this section, **designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds—
- (a) State and regional roads,
  - (b) bus interchanges and bus lanes,
  - (c) land required for regional open space,
  - (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

## **16 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Rise Bilambil Heights site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this section, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

### **16A Conversion of fire alarms**

- (1) This section applies to a fire alarm system that can be monitored by Fire and Rescue

NSW or by a private service provider.

- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—

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

## **17 Infrastructure development and use of existing buildings of the Crown**

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.
- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **18 Relevant acquisition authority**

- (1) The objective of this section is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved

for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note.**

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

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

**Type of land shown on Map**

**Authority of the State**

(When this section commenced this Table was blank.)

**Note.**

If land, other than land specified in the Table to subsection (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this section. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

- (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.

## **19 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Rise Bilambil Heights site to be carried out in accordance with this Appendix or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This section does not apply—
- (a) to a covenant imposed by the council or that the council requires to be imposed, or
  - (b) to any relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or

- (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (g) to any planning agreement within the meaning of Division 7.1 of the Act.
- (3) This section does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this section, approved of subsections (1)–(3).

## Appendix 5 State significant precinct—Calderwood site

section 2.7

### Part 1 Preliminary

#### 1 Land to which Appendix applies

This Appendix applies to the land identified in the [Land Application Map](#), referred to in this Appendix as the **Calderwood site**.

#### 2 Interpretation

(1) In this Appendix—

**eco-tourism facility** means a building or place used for tourist and visitor accommodation, function centres or environmental facilities, that is located in a natural environment and is primarily used for activities involving education about, or the interpretation, cultural understanding or appreciation of, the natural environment.

**ground level (finished)** means, for any point on a site, the ground surface after completion of any earthworks (excluding an excavation for a basement, footing or the like) for which development consent or an approval under Part 3A of the Act has been granted.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Height of Buildings Map](#).

**heritage item** means a building, work, relic, tree or place—

- (a) shown as a heritage item on the [Heritage Map](#), and
- (b) the location and nature of which is described in the Table to section 27(8).

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Land Zoning Map](#).

**Lot Size Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Lot Size Map](#).

**manufactured home** means a self-contained dwelling that—

- (a) includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities, and
- (b) comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
- (c) is not capable of being registered under the [Road Transport \(Vehicle Registration\) Act 1997](#),

and includes any associated structures that form part of the dwelling.

**manufactured home estate** means land on which manufactured homes are, or are to be, erected.

**place of Aboriginal heritage significance** means an area of land shown on the [Heritage Map](#) that is—

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**relevant council**, in relation to land, means the council of the local government area

in which the land is situated.

**Note.**

The land concerned is partly in the local government area of Shellharbour and partly in the local government area of Wollongong.

**stormwater management system** means—

- (a) works for the collection, detention, distribution or discharge of stormwater (such as channels, aqueducts, pipes, drainage works, embankments, detention basins and pumping stations), and
- (b) stormwater quality control devices (such as waste entrapment facilities, artificial wetlands, sediment ponds and riparian management), and
- (c) stormwater reuse schemes.

**waterway or foreshore management activities** means—

- (a) riparian corridor and bank management, including erosion control, bank stabilisation, resnagging, weed management, revegetation and the creation of foreshore access ways, or
- (b) instream management or dredging to rehabilitate aquatic habitat or to maintain or restore environmental flows or tidal flows for ecological purposes, or
- (c) coastal management and beach nourishment, including erosion control, dune or foreshore stabilisation works, headland management, weed management, revegetation activities and foreshore access ways.

- (2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Appendix.

### **3 Consent authority**

The consent authority for development on land within the Calderwood site, other than development to which Part 3A of the Act applies, is the relevant council.

### **4 Savings**

A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

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

The only environmental planning instruments that apply, according to their terms, to land

within the Calderwood site are—

- (a) Chapter 2, and
- (b) all other State Environmental Planning Policies.

## **Part 2 Provisions relating to development in Calderwood site**

### **6 Application of Part**

- (1) This Part applies to development on land within the Calderwood site, except as provided by subsection (2).
- (2) Sections 8–15, 17–21 and 23–33 do not apply to development to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Appendix, land within the Calderwood site is in one of the follow zones if the land is shown on the [Land Zoning Map](#) as being within that zone—

- (a) Zone RU2 Rural Landscape,
- (b) Zone R1 General Residential,
- (c) Zone R5 Large Lot Residential
- (d) Zone B4 Mixed Use,
- (e) Zone RE1 Public Recreation,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

### **8 Objectives of land use zones to be taken into account**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

### **9 Zone RU2 Rural Landscape**

- (1) The objectives of Zone RU2 Rural Landscape are as follows—
  - (a) to encourage sustainable primary industry production by maintaining and enhancing the natural resource base,
  - (b) to maintain the rural landscape character of the land,
  - (c) to provide for a range of compatible uses, including extensive agriculture,

(d) to retain, manage or restore native vegetation.

(2) Development for any of the following purposes is permitted without development consent on land within Zone RU2 Rural Landscape—

extensive agriculture; home occupations; roadside stalls.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone RU2 Rural Landscape—

agriculture (other than extensive agriculture); bed and breakfast accommodation; centre-based child care facilities; community facilities; dwelling houses; environmental facilities; environmental protection works; farm buildings; farm stay accommodation; forestry; home-based child care; home businesses; home industries; recreation areas; recreation facilities (outdoor); roads; secondary dwellings; signage; veterinary hospitals.

(4) Development for any of the following purposes is prohibited on land within Zone RU2 Rural Landscape—

any development not specified in subsection (2) or (3).

## **10 Zone R1 General Residential**

(1) The objectives of Zone R1 General Residential are as follows—

(a) to provide for the housing needs of the community,

(b) to provide for a variety of housing types and densities,

(c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential—

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential—

attached dwellings; boarding houses; centre-based child care facilities; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; shop top housing; any other development not specified in subsection (2) or (4).

(4) Development for any of the following purposes is prohibited on land within Zone R1 General Residential—



agriculture; air transport facilities; amusement centres; biosolid waste applications; boat repair facilities; boat sheds; bulky goods premises; business premises; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; eco-tourism facilities; entertainment facilities; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; function centres; highway service centres; home occupations (sex services); industrial retail outlets; industries; marinas; office premises; passenger transport facilities; port facilities; public administration buildings; recreation facilities (major); registered clubs; research stations; restricted premises; restriction facilities; retail premises; rural industries; rural supplies; rural workers' dwellings; service stations; sex services premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; waste or resource management facilities; water recreation structures; wholesale supplies.

## **11 Zone R5 Large Lot Residential**

(1) The objectives of Zone R5 Large Lot Residential are as follows—

- (a) to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality,
- (b) to ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future,
- (c) to ensure that development in the area does not unreasonably increase the demand for public services or public facilities,
- (d) to minimise conflict between land uses within the zone and land uses within adjoining zones.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R5 Large Lot Residential—

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R5 Large Lot Residential—

animal boarding or training establishments; bed and breakfast accommodation; business identification signs; centre-based child care facilities; community facilities; dwelling houses; environmental protection works; exhibition homes; farm buildings; home-based child care; home businesses; home industries; recreation areas; roads; roadside stalls; secondary dwellings.

(4) Development for any of the following purposes is prohibited on land within Zone R5 Large Lot Residential—

any development not specified in subsection (2) or (3).

## **12 Zone B4 Mixed Use**

(1) The objectives of Zone B4 Mixed Use are as follows—

- (a) to provide a mixture of compatible uses,
- (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

(2) Development for any of the following purposes is permitted without development consent on land within Zone B4 Mixed Use—

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use—

boarding houses; business premises; centre-based child care facilities; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing; any other development not specified in subsection (2) or (4).

(4) Development for any of the following purposes is prohibited on land within Zone B4 Mixed Use—

agriculture; air transport facilities; biosolid waste applications; boat repair facilities; boat sheds; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; hazardous storage establishments; hazardous industries; heavy industries; home occupations (sex services); liquid fuel depots; offensive storage establishments; restricted premises; restriction facilities; rural industries; sex services premises; transport depots; truck depots; water recreation structures.

## **13 Zone RE1 Public Recreation**

(1) The objectives of Zone RE1 Public Recreation are as follows—

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

- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation—

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation—

building identification signs; business identification signs; centre-based child care facilities; community facilities; drainage; environmental facilities; environmental protection works; flood mitigation works; information and education facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; sewerage reticulation facilities; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

- (4) Development for any of the following purposes is prohibited on land within Zone RE1 Public Recreation—

any development not specified in subsection (2) or (3).

#### **14 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—

drainage; environmental protection works; environmental facilities; flood mitigation works; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; water supply systems; waterbodies; waterway or foreshore management activities.

- (4) Development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation—

business premises; hotel or motel accommodation; industries; multi dwelling

housing; recreation facilities (major); residential flat buildings; retail premises; service stations; warehouse or distribution centres; any development not specified in subsection (2) or (3).

### **15 Zone E3 Environmental Management**

(1) The objectives of Zone E3 Environmental Management are as follows—

- (a) to protect, manage and restore areas of special ecological, scientific, cultural or aesthetic values,
- (b) to provide for a limited range of development that does not have an adverse effect on those values.

(2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management—

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management—

bed and breakfast accommodation; building identification signs; business identification signs; community facilities; drainage; dwelling houses; eco-tourism facilities; environmental facilities; environmental protection works; flood mitigation works; home-based child care; home businesses; home industries; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

(4) Development for any of the following purposes is prohibited on land within Zone E3 Environmental Management—

industries; multi dwelling housing; residential flat buildings; retail premises; service stations; warehouse or distribution centres; any development not specified in subsection (2) or (3).

### **16 Prohibited development**

Development on land within the Calderwood site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

### **17 Subdivision—consent requirements**

(1) Land within the Calderwood site may be subdivided, but only with development consent.

**Note.**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies certain subdivision development as exempt development.

### **17A Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

**Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

### **18 Minimum subdivision lot size**

- (1) The objectives of this section are as follows—
  - (a) to create lots that are compatible with the desired future character of the locality and to minimise likely adverse impacts on the amenity of adjoining developments,
  - (b) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to ensure that lot sizes have a practical and efficient layout for the intended use,
  - (d) to ensure that lot sizes allow buildings to be sited to protect natural or cultural features and retain special features such as trees and views.
- (2) This section applies to a subdivision of any land in the Calderwood site that requires development consent and that is carried out after the commencement of this Appendix.
- (3) The size of any lot resulting from a subdivision of land to which this section applies is not to be less than the minimum lot size shown on the [Lot Size Map](#) in relation to that land.
- (4) Despite any other provision of this Appendix, development consent must not be granted for the subdivision of any land in the Calderwood site if the subdivision would create a lot smaller than the minimum lot size permitted for the land immediately before the commencement of this section.
- (5) This section does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

### **19 Subdivision certificates**

A subdivision certificate may be issued by an accredited certifier for a subdivision of land within the Calderwood site in accordance with section 6.5(3)(a) of the Act.

## **20 Height restrictions**

The height of a building on any land within the Calderwood site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#), measured from ground level (finished).

## **21 Kiosks**

Despite any other provision of this Appendix, if development consent may be granted to development for the purposes of a kiosk, consent must only be granted if the floor area of the kiosk does not exceed 10m<sup>2</sup>.

## **22 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Calderwood site, does not apply to that development if the Secretary is satisfied, and issues a certificate to the effect, that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) there are sufficient environmental planning grounds to justify exempting the development from that development standard.
- (2) In deciding whether to issue a certificate, the Secretary must consider—
  - (a) whether the contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary.

## **23 Exceptions to development standards—other development**

- (1) This section applies to development on land within the Calderwood site, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this section are—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility on particular circumstances.
- (3) Development consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply

to a development standard that is expressly excluded from the operation of this section.

- (4) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (5) The consent authority must keep a record of its assessment carried out under subsection (4).
- (6) (Repealed)
- (7) Development consent must not be granted under this section for a subdivision of land in Zone E2 Environmental Conservation.
- (8) (Repealed)
- (9) This section does not allow development consent to be granted for development that would contravene any of the following—
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

## **24 Conversion of fire alarms**

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

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

(3) In this section—

***private service provider*** means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

## 25 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the [Rural Fires Act 1997](#) may be carried out on any land without consent.

**Note.**

The [Rural Fires Act 1997](#) also makes provision relating to the carrying out of development on bush fire prone land.

## 26 Flood planning

(1) The objectives of this section are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This section applies to land at or below the flood planning level.

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

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction or riparian vegetation or a reduction in the stability of river banks or watercourses, and



(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this section has the same meaning as it has in the Flood Risk Management Manual, unless it is otherwise defined in this section.

(5) In this section—

**flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5m freeboard.

**Flood Risk Management Manual** means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

## 27 Heritage conservation

(1) **Objectives** The objectives of this section are—

- (a) to conserve the environmental heritage of the Calderwood site, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent** Development consent is required for any of the following—

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating a place of Aboriginal heritage significance,
- (e) erecting a building on land on which a heritage item is located,
- (f) subdividing land on which a heritage item is located.

(3) **When consent not required** However, consent under this section is not required if—

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
  - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
  - (ii) would not adversely affect the significance of the heritage item or

archaeological site, or

(b) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or

(c) the development is exempt development.

(4) **Effect on heritage significance** The consent authority must, before granting consent under this section, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) **Heritage impact assessment** The consent authority may, before granting consent to any development on land—

(a) on which a heritage item is situated, or

(b) within the vicinity of land on which a heritage item is situated,

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

(6) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this section to the carrying out of development in a place of Aboriginal heritage significance—

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and

(b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(7) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Appendix, if the consent authority is satisfied that—

(a) the conservation of the heritage item is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and

(d) the proposed development would not adversely affect the heritage significance of

the heritage item, including its setting, and

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

(8) For the purposes of paragraph (b) of the definition of **heritage item** in section 2(1), the location and nature of a heritage item is specified in the following Table—

**Table—heritage items**

<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Item no</b>
Marshall Mount Methodist Cemetery	Calderwood Road, Calderwood	Lot 1, DP 195342	2
Marshall Mount Homestead and Barn	Marshall Mount Road, Calderwood	Part Lot 2, DP 2534	1

## **28 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Calderwood site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This section does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this section, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

## **29 Development near zone boundaries**

- (1) The objective of this section is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This section applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 50m.
- (3) This section does not apply to—
  - (a) land in Zone RE1 Public Recreation, Zone E2 Environmental Conservation or Zone

E3 Environmental Management, or

- (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of Chapter 2 relating to the purposes for which development may be carried out, consent may be granted to development of land to which this section applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—
  - (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

**30 (Repealed)**

**31 Infrastructure development and use of existing buildings of the Crown**

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2.
- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

**32 Temporary use of land**

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Appendix, development consent may be granted for development on land within the Calderwood site in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Appendix and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity

of the neighbourhood, and

- (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

### **33 Interim land use**

- (1) Despite any other provision of this Appendix, development consent may be granted for development on land to which this Appendix applies for the following purposes—
- (a) animal boarding or training establishments,
  - (b) extensive agriculture,
  - (c) cellar door premises,
  - (d) farm buildings,
  - (e) farm forestry,
  - (f) farm stay accommodation,
  - (g) rural worker's dwellings,
- for a maximum period of 10 years.
- (2) Development consent must not be granted unless the consent authority is satisfied that—
- (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Appendix or any other applicable environmental planning instrument, and
  - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the use and location of an structures will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

## Appendix 6 State significant precinct—Southern Highlands Regional Shooting Complex site

section 2.7

### Part 1 Preliminary

#### 1 Land to which Appendix applies

This Appendix applies to the land identified on the [Land Application Map](#), referred to in this Schedule as the **Southern Highlands Regional Shooting Complex site**.

#### 2 Interpretation

(1) In this Appendix—

**Council** means the Wingecarribee Shire Council.

**Land Application Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 33\) Southern Highlands Regional Shooting Complex—Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 33\) Southern Highlands Regional Shooting Complex—Land Zoning Map](#).

**shooting range** means an area for firearm shooting competition, training or practice.

**support infrastructure** means a building, work or associated infrastructure used for the purpose of a club house, administration, grounds maintenance, car parking, site utility or environmental protection.

(2) A word or expression used in this Appendix has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Appendix.

#### 3 Consent authority

The consent authority for development on land in the Southern Highlands Regional Shooting Complex site, other than development that is a transitional Part 3A project, is the Council.

#### 5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Southern Highlands Regional Shooting Complex site are Chapter 2 and all other State environmental planning policies.

## **Part 2 Provisions relating to development within Southern Highlands Regional Shooting Complex site**

### **6 Application of Part**

- (1) This Part applies to development on land in the Southern Highlands Regional Shooting Complex site, except as provided by subsection (2).
- (2) Sections 8, 9, 10, 15, 16 and 17 do not apply to development within the Southern Highlands Regional Shooting Complex site to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of Chapter 2, land in the Southern Highlands Regional Shooting Complex site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone—

- (a) Zone SP1 Special Activities,
- (b) Zone E2 Environmental Conservation.

### **8 Objectives of land use zones to be taken into account**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

### **9 Zone SP1 Special Activities**

- (1) The objectives of Zone SP1 Special Activities are as follows—
  - (a) to provide for special land uses that are not provided for in other zones,
  - (b) to provide for sites with special natural characteristics that are not provided for in other zones,
  - (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land,
  - (d) to facilitate development for the purpose of a shooting complex, including the shooting ranges and support infrastructure,
  - (e) to prevent development that could have an adverse effect on a shooting complex, including the shooting ranges and support infrastructure.
- (2) Development for the following purpose is permitted without development consent on land within Zone SP1 Special Activities—
  - environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities—

the purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose; drainage.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP1 Special Activities unless it is permitted by subsection (2) or (3).

## **10 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for the following purpose is permitted without development consent on land within Zone E2 Environmental Conservation—

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—

drainage; environmental facilities; roads; shooting ranges.

- (4) Except as otherwise provided by this Part, development for the following purposes is prohibited on land within Zone E2 Environmental Conservation—

business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subsection (2) or (3).

## **11 Prohibited development**

Development on land within the Southern Highlands Regional Shooting Complex site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

## **12 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.



- (2) This Appendix does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **13 Height of buildings**

The height of a building on land in the Southern Highlands Regional Shooting Complex site is not to exceed 9 metres.

### **14 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is within the Southern Highlands Regional Shooting Complex site, does not apply to that development if the Secretary is satisfied, and issues a certificate to the effect, that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) there are sufficient environmental planning grounds to justify exempting the development from that development standard.
- (2) In deciding whether to issue a certificate, the Secretary must consider—
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary.

### **15 Exceptions to development standards—other development**

- (1) This section applies to development, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this section are—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Consent may, subject to this section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this section does not apply to a development standard that is expressly excluded from the operation of this section.
- (4) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for

development consent has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (5) The consent authority must keep a record of its assessment carried out under subsection (4).
- (6), (7) (Repealed)
- (8) This section does not allow consent to be granted for development that would contravene a development standard for complying development.

## **16 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

**Note.**

The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

## **17 Subdivision—consent requirements**

Land to which this Appendix applies may be subdivided, but only with development consent.

**Notes.**

**1** If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.

**2** Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

## **18 Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

**Note.**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as Chapter 2 or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without development consent.

## **19 Temporary use of land**

- (1) The objective of this section is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of Chapter 2, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with Chapter 2 and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subsection (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subsection.
- (5) Subsection (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subsection (4).

## **20 Conversion of fire alarms**

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

- (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subsection (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this section—

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

## Schedule 1 Parkes Activation Precinct

section 3.2(1), definition of “Activation Precinct”

### Part 1 Declaration and zoning

#### 1 Declaration of Parkes Activation Precinct

The land shown as Parkes Activation Precinct on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Land Application Map](#) is declared to be the Parkes Activation Precinct.

#### 1A Consent authority in Regional Enterprise Zone

The Planning Secretary is the consent authority for development on land in the Regional Enterprise Zone.

#### 2 Land use zones

The land use zones in the Parkes Activation Precinct are as follows—

Regional Enterprise Zone

SP2 Infrastructure Zone

### **3 Zoning of land within Parkes Activation Precinct**

For the purposes of this Schedule, land is within the zones shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Land Zoning Map](#).

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

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

## **Land Use Table**

### **Regional Enterprise Zone**

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

- To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.
- To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.
- To provide opportunities for regional economic development and employment.
- To attract industries that would contribute to and benefit from being close to major freight transport networks.
- To protect and enhance the local character of the precinct and contribute to the

surrounding environment and its amenity.

- To encourage the development of industry leading renewable energy generation and resource and waste management.

## **2 Permitted without consent**

Environmental protection works

## **3 Permitted with consent**

Cellar door premises; Food and drink premises; Hotel or motel accommodation; Kiosks; Landscaping material supplies; Neighbourhood shops; Timber yards; Any other development not specified in item 2 or 4

## **4 Prohibited**

Air transport facilities; Amusement centres; Animal boarding or training establishments; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Commercial premises; Correctional centres; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Function centres; Hazardous industries; Hazardous storage establishments; Health services facilities; Home-based child care; Home businesses; Home industries; Mortuaries; Offensive industries; Offensive storage establishments; Open cut mining; Places of public worship; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Schools; Sex services premises; Tourist and visitor accommodation; Water recreation structures

## **SP2 Infrastructure Zone**

### **1 Objectives of zone**

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

### **2 Permitted without consent**

Roads

### **3 Permitted with consent**

Aquaculture; The purpose shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Part 2 Development permitted with consent**

#### **5 Solar energy farms**

(1) Development for the purposes of solar energy farms is permitted with consent on land within the Parkes Activation Precinct.

(2) (Repealed)

#### **6 (Repealed)**

### **Part 3 Exempt development**

#### **Division 1**

#### **7, 8 (Repealed)**

#### **9 Exempt development**

(1) Clauses 2.54A, 2.54B, 2.74A, 2.74B, 2.75–2.78, 2.78E, 2.78F, 2.109–2.112 and 2.117–2.124 of the Codes SEPP apply to land within the Parkes Activation Precinct.

(2) Development specified in those sections is exempt development if—

(a) it is exempt development for the purposes of that Policy, and

(b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#).

(3) Development specified in Schedule 1C is exempt development if—

(a) it meets the standards specified for that development in Schedule 1C, and

(b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#), and

(c) it meets the relevant provisions of the *Building Code of Australia*.

### **Part 4 Miscellaneous**

#### **10 Additional permitted uses for particular land**

(1) Development for the purposes of specialised retail premises is permitted with development consent on land identified as “Area 1” on the [State Environmental](#)

[Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Additional Permitted Uses Map.](#)

- (2) This section has effect despite anything to the contrary in the Land Use Table or other provision of this Schedule.

**10A Preservation of trees and vegetation**

- (1) The objectives of this section are as follows—
- (a) to preserve the amenity of the Parkes Activation Precinct through the preservation of trees and vegetation,
  - (b) to promote the conservation of native vegetation,
  - (c) to minimise the impact of development on native vegetation.
- (2) This section applies to land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Parkes Activation Precinct Environmentally Sensitive Areas Map](#).
- (3) A person must not clear native vegetation on land to which this section applies without development consent.
- (4) Development consent under subsection (3) must not be granted unless the consent authority is satisfied that, in relation to the disturbance of native vegetation caused by the clearing—
- (a) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (b) any impact of the proposed clearing on biodiversity values is avoided or minimised, and
  - (c) the disturbance of the native vegetation will not increase salinity, and
  - (d) native vegetation inadvertently disturbed for the purposes of construction will be reinstated where possible on completion of construction, and
  - (e) the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation, and
  - (f) 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.
- (5) [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 2 does not apply to land to which this section applies.



## **11 Application of *Parkes Local Environmental Plan 2012***

- (1) *Parkes Local Environmental Plan 2012*, clauses 2.6(1), 2.7, 2.8 and 5.10 apply to land in the Parkes Activation Precinct in the same way as they apply to land to which that Plan applies.
- (2) A reference in *Parkes Local Environmental Plan 2012*, clause 5.10 to the consent authority is to be read as a reference to the consent authority for the Parkes Activation Precinct.

## **11A Application of *State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2***

- (1) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 applies to land in the Parkes Activation Precinct, subject to the modifications set out in this section.
- (2) The Regional Enterprise zone is taken to be a prescribed zone for the following provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021*—
  - (a) section 2.52,
  - (b) sections 2.109 and 2.111,
  - (c) section 2.126, other than section 2.126(3) and (5),
  - (d) section 2.159(4).
- (3) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.159 applies only to land in the Regional Enterprise zone.

## **12 Existing development applications**

A development application for development on land within the Parkes Activation Precinct that was lodged before the land was part of that Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.

## **Schedule 1A Wagga Wagga Activation Precinct**

section 3.2(1), definition of “Activation Precinct”

### **Part 1 Declaration and zoning**

#### **1 Commencement**

This Schedule commences on the day on which *Wagga Wagga Local Environmental Plan 2010 (Amendment No 45)* commences.

## **2 Declaration of Wagga Wagga Activation Precinct**

The land shown as Wagga Wagga Activation Precinct on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Land Application Map](#) is declared to be the Wagga Wagga Activation Precinct.

## **3 Consent authority**

The Planning Secretary is the consent authority for development on land in the Regional Enterprise Zone and Rural Activity Zone.

## **4 Land use zones**

The land use zones in the Wagga Wagga Activation Precinct are as follows—

Regional Enterprise Zone

Rural Activity Zone

SP2 Infrastructure Zone

RE1 Public Recreation Zone

E2 Environmental Conservation Zone

## **5 Zoning of land within Wagga Wagga Activation Precinct**

For the purposes of this Schedule, land is within the zones shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Land Zoning Map](#).

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

- (1) The Land Use Table at the end of this Part specifies for each zone—
  - (a) the objectives for development, and
  - (b) development that may be carried out without development consent, and
  - (c) development that may be carried out only with development consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in relation to land in the zone.
- (3) In the Land Use Table at the end of this Part—
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and

(b) a reference to a type of building or other thing does not include, despite any definition in this Policy, Chapter 3 or this Schedule, a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the zone.

(4) This section is subject to the other provisions of this Policy, Chapter 3 and this Schedule.

## **Land Use Table**

### **Regional Enterprise Zone**

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

- To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.
- To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.
- To provide opportunities for regional economic development and employment.
- To attract industries that would contribute to and benefit from being close to major freight transport networks.
- To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.
- To encourage the development of industry leading renewable energy generation and resource and waste management.

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

Environmental protection works; Home businesses; Home occupations; Roads

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

Centre-based child care facilities; Liquid fuel depots; Any other development not specified in item 2 or 4

#### **4 Prohibited**

Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Correctional centres; Dairies (restricted); Eco-tourist facilities; Early education and care facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Heavy industrial storage establishments; Heavy industries; Helipads; Home industries; Home occupations (sex services); Hospitals; Jetties; Marinas; Markets; Mooring

pens; Moorings; Neighbourhood supermarkets; Open cut mining; Places of public worship; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Roadside stalls; Schools; Sex services premises; Small bars; Tourist and visitor accommodation; Water recreation structures

## **Rural Activity Zone**

### **1 Objectives of zone**

- To provide a transition between rural and urban land uses.
- To protect and enhance the rural character of Wagga Wagga Activation Precinct and contribute to the surrounding environment and its amenity.
- To provide a buffer between future residential and employment growth areas.
- To support agricultural and rural land uses.

### **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Roads

### **3 Permitted with consent**

Agriculture; Animal boarding or training establishments; Car parks; Community facilities; Educational establishments; Emergency services facilities; Environmental facilities; Farm buildings; Flood mitigation works; Industrial training facilities; Information and education facilities; Kiosks; Recreation areas; Research stations; Rural supplies; Sewerage systems; Signage; Water supply systems

### **4 Prohibited**

Biosolids treatment facilities; Intensive livestock agriculture; Schools; Sewage treatment plants; Water recycling facilities; Any other development not specified in item 2 or 3

## **SP2 Infrastructure Zone**

### **1 Objectives of zone**

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

### **2 Permitted without consent**

Roads

### **3 Permitted with consent**

Aquaculture; Flood mitigation works; The purpose shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

### **4 Prohibited**

Any development not specified in item 2 or 3

## **RE1 Public Recreation Zone**

### **1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To protect and enhance the natural environment generally and to assist in ensuring that areas of high ecological, scientific, cultural or aesthetic values are maintained or improved.

### **2 Permitted without consent**

Environmental facilities; Environmental protection works; Roads

### **3 Permitted with consent**

Aquaculture; Community facilities; Flood mitigation works; Information and education facilities; Kiosks; Markets; Recreation areas; Research stations; Sewage reticulation systems; Signage; Water reticulation systems

### **4 Prohibited**

Any development not specified in item 2 or 3

## **E2 Environmental Conservation Zone**

### **1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To provide for cultural activities that promote recognition of country and appreciation of the natural environment, consistent with the protection of those values.

## **2 Permitted without consent**

Environmental protection works

## **3 Permitted with consent**

Community facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Oyster aquaculture; Recreation areas; Research stations; Roads; Sewage reticulation systems; Water reticulation systems

## **4 Prohibited**

Business premises; Hotel or motel accommodation; Multi dwelling housing; Pond-based aquaculture; Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3

# **Part 3 Exempt development**

## **Division 1**

### **7, 8 (Repealed)**

### **9 Exempt development**

(1) The following provisions of the Codes SEPP apply to land in the Wagga Wagga Activation Precinct—

- (a) for land in the Regional Enterprise Zone—clauses 2.6C, 2.6D, 2.9, 2.10, 2.13, 2.14, 2.20A, 2.20B, 2.23–2.24, 2.27–2.30, 2.30A, 2.30B, 2.37, 2.38, 2.39–2.40B, 2.46A, 2.46B, 2.47, 2.48, 2.51, 2.52, 2.54A–2.56, 2.61, 2.62, 2.71–2.72D, 2.74, 2.74B, 2.75–2.78, 2.78E–2.80, 2.98–2.105, 2.109–2.112 and 2.117–2.124,
- (b) for land in the RE1 Public Recreation Zone—clauses 2.57 and 2.58,
- (c) for land in the Rural Activity Zone—clauses 2.9–2.14, 2.27–2.30, 2.30A, 2.30B, 2.35, 2.36, 2.46A–2.48, 2.51, 2.52, 2.54A–2.56, 2.71–2.72B, 2.75, 2.76, 2.79, 2.80, 2.98, 2.99, 2.104 and 2.105,
- (d) for land in the Rural Activity Zone but only in relation to existing residential premises—clauses 2.17, 2.18, 2.21, 2.22, 2.39, 2.40, 2.42A, 2.42B, 2.57–2.62, 2.69, 2.70, 2.73 and 2.74.

(2) Development specified in those clauses is exempt development if—

- (a) it is exempt development for the purposes of the Codes SEPP, and
- (b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation](#)

[Precinct Environmentally Sensitive Areas Map](#), and

(c) it complies with [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), section 2.20(2)(a)–(f).

(3) Development specified in Schedule 1C is exempt development if—

(a) it meets the standards specified for the development in Schedule 1C, and

(b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Environmentally Sensitive Areas Map](#), and

(c) it is not on land on which a heritage item or Aboriginal object is located or land in a heritage conservation area or Aboriginal place of heritage significance, and

(d) it meets the relevant provisions of the *Building Code of Australia*, and

(e) it complies with [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), section 2.20(2)(a)–(f).

## Part 4 Miscellaneous

### 10 Controls relating to miscellaneous permissible uses

(1) **Industrial retail outlets** If development for the purpose of an industrial retail outlet is permitted under this Schedule, the retail floor area must not exceed whichever is the lesser of the following areas—

(a) 30% of the gross floor area of the industry or rural industry located on the same land as the retail outlet,

(b) 400 square metres.

(2) **Kiosks** If development for the purpose of a kiosk is permitted under this Schedule, the gross floor area must not exceed 20 square metres.

(3) **Neighbourhood shops** If development for the purpose of a neighbourhood shop is permitted under this Schedule, the retail floor area must not exceed 100 square metres.

(4) **Artisan food and drink industries** If development for the purpose of an artisan food and drink industry is permitted under this Schedule, the floor area used for retail sales, not including any cafe or restaurant area, must not exceed whichever is the lesser of the following areas—

(a) 30% of the gross floor area of the industry,

(b) 400 square metres.

## **11 Additional permitted uses**

- (1) Development for the following purposes is permitted with development consent on land identified as C” on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Additional Permitted Uses Map](#)—
  - (a) light industries,
  - (b) general industries,
  - (c) storage premises,
  - (d) self-storage units,
  - (e) hardware and building supplies,
  - (f) landscaping material supplies,
  - (g) plant nurseries,
  - (h) industrial retail outlets,
  - (i) wholesale supplies.
- (2) Development for the purposes of solar energy farms is permitted with development consent on land in the Rural Activity Zone identified as A” or B” on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Additional Permitted Uses Map](#).
- (3) However, development for the purpose of solar energy farms is not permitted on land in the Rural Activity Zone identified as A” if the area of the land on which the development is proposed to be carried out exceeds 35 hectares.
- (3A) Development for the purposes of electricity generating works used for electricity storage is permitted with development consent on land in the Rural Activity Zone.
- (4) This section has effect despite anything to the contrary in the Land Use Table or other provision of this Schedule.

## **12 Preservation of trees and vegetation**

- (1) The objectives of this section are as follows—
  - (a) to preserve the amenity of the Wagga Wagga Activation Precinct through the preservation of trees and vegetation,
  - (b) to promote the conservation of native vegetation,
  - (c) to minimise the impact of development on native vegetation.



- (2) This section applies to land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Wagga Wagga Activation Precinct Environmentally Sensitive Areas Map](#).
- (3) A person must not clear native vegetation on land to which this section applies without development consent.
- (4) Development consent under subsection (3) must not be granted unless the consent authority is satisfied that, in relation to the disturbance of native vegetation caused by the clearing—
  - (a) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (b) any impact of the proposed clearing on biodiversity values is avoided or minimised, and
  - (c) the disturbance of the native vegetation will not increase salinity, and
  - (d) native vegetation inadvertently disturbed for the purposes of construction will be reinstated where possible on completion of construction, and
  - (e) the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation, and
  - (f) 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.
- (5) [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 2 does not apply to land to which this section applies.

### 13 Heritage conservation

- (1) [Wagga Wagga Local Environmental Plan 2010](#), clause 5.10 applies to the heritage items specified in the following table in the same way as it applies to heritage items under that Plan—

Suburb	Item name	Address	Property description	Significance	Item No
Bomen	Bomen railway station	46 Dampier Street	Lot 3, DP 852602	State	I1
Bomen	Bomen stationmaster's residence	58 Dampier Street	Lot 1, DP 830096	Local	I2

Brucedale	Brucedale Hall and tennis courts	1 Brucedale Drive and 1575 Olympic Highway	Lot 12, DP 751422; Lot 7003, DP 1068668	Local	13
Brucedale	Hopevale	1365 Olympic Highway	Lot 1, DP 747583	Local	16
Brucedale	2WG Radio broadcasting facility	1430 Olympic Highway	Lot 1, DP 374504	Local	17
Brucedale	Postal receiving office (former) and Devonhurst" farm shed	1554 and 1556 Olympic Highway	Lot 336, DP751422; Lot 335, DP751422	Local	18
Brucedale	Holy Family Chapel	1555 Olympic Highway	Lot 431, DP 751422	Local	15
Brucedale	Brucedale Public School (former)	1563 Olympic Highway	Lot 433, DP 751422	Local	14

- (2) A reference in *Wagga Wagga Local Environmental Plan 2010*, clause 5.10 to the consent authority is to be read as a reference to the consent authority for the Wagga Wagga Activation Precinct.

#### 14 Application of *Wagga Wagga Local Environmental Plan 2010*

*Wagga Wagga Local Environmental Plan 2010*, clauses 2.6–2.8, 5.1, 5.8 and 5.11 apply to land in the Wagga Wagga Activation Precinct in the same way as they apply to land to which that Plan applies.

#### 15 Application of *State Environmental Planning Policy (Transport and Infrastructure) 2021*

- (1) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 applies to land in the Wagga Wagga Activation Precinct, subject to the modifications set out in this section.
- (2) The following zones in the Wagga Wagga Activation Precinct are taken to be a prescribed zone for the purposes of the specified provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021*—
- the Regional Enterprise Zone for sections 2.31, 2.92, 2.94(1)(a) and 2.126,
  - the Regional Enterprise and Rural Activity Zones for sections 2.52(1), 2.105 and 2.106(1),

(c) all zones for sections 2.109 and 2.111.

- (3) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.41(1), (3) and (4)(f)(ii) and (iii) does not apply to land in the Wagga Wagga Activation Precinct.
- (4) For the purposes of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.159(2)(a), the Regional Enterprise and Rural Activity Zones are taken to be an equivalent land use zone.

## **16 Existing development applications**

A development application for development on land in the Wagga Wagga Activation Precinct that was lodged before the land was part of that Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.

## **Schedule 1B Moree Activation Precinct**

section 3.2(1), definition of “Activation Precinct”

### **Part 1 Declaration and zoning**

#### **1 Commencement**

This Schedule commences on 30 September 2022.

#### **2 Declaration of Moree Activation Precinct**

The land shown as Moree Activation Precinct on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Land Application Map](#) is declared to be the Moree Activation Precinct.

#### **3 Consent authority**

The Planning Secretary is the consent authority for development on land in the Regional Enterprise Zone and Rural Activity Zone.

#### **4 Land use zones**

The land use zones in the Moree Activation Precinct are as follows—

Regional Enterprise Zone

Rural Activity Zone

SP1 Special Activities Zone

SP2 Infrastructure Zone

## **5 Zoning of land within Moree Activation Precinct**

For the purposes of this Schedule, land is within the zones shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Land Zoning Map](#).

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

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

## **Land Use Table**

### **Regional Enterprise Zone**

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

- To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.
- To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.
- To provide opportunities for regional economic development and employment.
- To attract industries that would contribute to and benefit from being close to major freight transport networks.

- To encourage the development of industry leading renewable energy generation and resource and waste management.

## **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Farm Buildings; Home businesses; Home industries; Home occupations; Roads

## **3 Permitted with consent**

Centre-based child care facilities; Hotel or motel accommodation; Any other development not specified in item 2 or 4; Any other development that is ordinarily incidental or ancillary to development for a purpose permitted with consent

## **4 Prohibited**

Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Hazardous storage establishments; Heavy industries; Helipads; Home occupations (sex services); Home-based child care; Hospitals; Jetties; Marinas; Markets; Mooring pens; Moorings; Neighbourhood supermarkets; Offensive storage establishments; Open cut mining; Places of public worship; Port facilities; Residential accommodation; Respite day care centres; Restricted premises; Roadside stalls; Schools; Sex services premises; Small bars; Tourist and visitor accommodation

## **Rural Activity Zone**

### **1 Objectives of zone**

- To provide a transition between rural and urban land uses.
- To support agricultural and rural land uses.

### **2 Permitted without consent**

Building identification signs; Business identification signs; Environmental protection works; Extensive agriculture; Home businesses; Home industries; Home occupations; Roads

### **3 Permitted with consent**

Agriculture; Car parks; Community facilities; Educational establishments; Electricity generating works; Emergency services facilities; Environmental facilities; Farm buildings; Flood mitigation works; Industrial training facilities; Information and education facilities; Light industries; Recreation areas; Recreational facilities (outdoor); Research stations; Sewage reticulations systems; Signage; Water reticulation systems

#### **4 Prohibited**

Any development not specified in item 2 or 3

#### **SP1 Special Activities**

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

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

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

Roads

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

Aquaculture; The purpose shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

#### **4 Prohibited**

Any development not specified in item 2 or 3

#### **SP2 Infrastructure Zone**

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

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

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

Aquaculture; Roads

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

The purpose shown on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

#### 4 Prohibited

Any development not specified in item 2 or 3

### Part 2 Exempt development

#### Division 1

#### 7, 8 (Repealed)

#### 9 Exempt development

- (1) The following provisions of the Codes SEPP apply to land in the Moree Activation Precinct—
  - (a) for land in the Regional Enterprise Zone—clauses 2.6C, 2.6D, 2.9, 2.10, 2.13, 2.14, 2.20A, 2.20B, 2.23–2.24, 2.27–2.30, 2.30A, 2.30B, 2.37–2.40B, 2.47, 2.48, 2.51, 2.52, 2.54A–2.56, 2.61–2.66, 2.71–2.72D, 2.74A, 2.74B, 2.75–2.78, 2.78E–2.80, 2.98–2.105, 2.108–2.112 and 2.117–2.124,
  - (b) for land in the Rural Activity Zone—clauses 2.27–2.30, 2.30A, 2.30B, 2.35, 2.36, 2.46A–2.48, 2.51, 2.52, 2.54A–2.56, 2.71–2.72B, 2.75, 2.76, 2.79, 2.80, 2.98, 2.99, 2.104 and 2.105.
- (2) Development specified in those clauses is exempt development if—
  - (a) it is exempt development for the purposes of the Codes SEPP, and
  - (b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Environmentally Sensitive Areas Map](#), and
  - (c) it complies with [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), section 2.20(2)(a)–(f).
- (3) Development specified in Schedule 1C is exempt development if—
  - (a) it meets the standards specified for the development in Schedule 1C, and
  - (b) it is not on land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Environmentally Sensitive Areas Map](#), and
  - (c) it is not on land on which a heritage item or Aboriginal object is located or land in a heritage conservation area or Aboriginal place of heritage significance, and
  - (d) it meets the relevant provisions of the *Building Code of Australia*, and
  - (e) it complies with [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), section 2.20(2)(a)–(f).

## Part 3 Miscellaneous

### 10 Preservation of trees and vegetation

- (1) The objectives of this section are as follows—
  - (a) to preserve the amenity of the Moree Activation Precinct through the preservation of trees and vegetation,
  - (b) to promote the conservation of native vegetation,
  - (c) to minimise the impact of development on native vegetation.
- (2) This section applies to land identified as within an environmentally sensitive area on the [State Environmental Planning Policy \(Activation Precincts\) 2020 Moree Activation Precinct Environmentally Sensitive Areas Map](#).
- (3) A person must not clear native vegetation on land to which this section applies without development consent.
- (4) Development consent under subsection (3) must not be granted unless the consent authority is satisfied that, in relation to the disturbance of native vegetation caused by the clearing—
  - (a) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (b) any impact of the proposed clearing on biodiversity values is avoided or minimised, and
  - (c) the disturbance of the native vegetation will not increase salinity, and
  - (d) native vegetation inadvertently disturbed for the purposes of construction will be reinstated where possible on completion of construction, and
  - (e) the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation, and
  - (f) 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.
- (5) [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 2 does not apply to land to which this section applies.

### 10A Additional permitted uses for particular land

- (1) This section applies to the following land in Moree—
  - (a) Lot 7, DP 1212873, 17 Perry James Crescent,



(b) Lot 15, DP 1212873, 19 Perry James Crescent,

(c) Lot 14, DP 1212873, 21 Perry James Crescent.

(2) Development for the purposes of caravan parks is permitted with development consent.

(3) This section has effect despite anything to the contrary in the Land Use Table or other provision of this schedule.

#### **11 Application of Moree Plains Local Environmental Plan 2011**

(1) *Moree Plains Local Environmental Plan 2011*, clauses 2.6–2.8, 5.1, 5.8, 5.10 and 7.3–7.5 apply to land in the Moree Activation Precinct in the same way as they apply to land to which that Plan applies.

(2) A reference in *Moree Plains Local Environmental Plan 2011*, clauses 5.10 and 7.3–7.5 to the consent authority is to be read as a reference to the consent authority for the Moree Activation Precinct.

#### **12 Application of State Environmental Planning Policy (Transport and Infrastructure) 2021**

(1) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 applies to land in the Moree Activation Precinct, subject to the modifications set out in this section.

(2) The following zones in the Moree Activation Precinct are taken to be prescribed zones for the purposes of the specified provisions of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*—

(a) the Regional Enterprise Zone for sections 2.31, 2.51(1), 2.94(1)(a), 2.105, 2.106(1), 2.126 and 2.159(4),

(b) the Rural Activity Zone for sections 2.52(1), 2.105 and 2.106(1),

(c) all zones for sections 2.109(2) and 2.111.

(3) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.41(1), (3) and (4)(f)(ii) and (iii) does not apply to land in the Moree Activation Precinct.

(4) For the purposes of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, section 2.159(2)(a), the Regional Enterprise Zone and the Rural Activity Zone are taken to be an equivalent land use zone.

(5) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 3.41(7) and 3.48(7) do not apply to land in the Moree Activation Precinct.

### 13 Existing development applications

A development application for development on land in the Moree Precinct that was lodged before the land was part of that Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.

## Schedule 1C Exempt development—Chapter 3

Sch 1, s 9(3), Sch 1A, s 9(3), Sch 1B, s 9(3) and Sch 1D, s 10(3)

Development purpose	Development standards
Access ramps	<p>Must not interfere with the functioning of existing drainage fixtures or the natural surface flow of water. If located on bush fire prone land and less than 5m from a dwelling—must be constructed of non-combustible material.</p>
Aerials, antennae and communication dishes	<p>Must resist loads in accordance with AS\NZS 1170.0:2002, <i>Structural design actions, Part 0: General Principles</i> and AS\NZS 1170.2:2011, <i>Structural design actions - Part 2: Wind actions</i>. Must be anchored by a concrete slab or footing designed in accordance with AS 3600:2018, <i>Concrete structures</i>.</p>
Air-conditioning units	<p>Must be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road. Must not reduce the existing fire resistance level of a wall. Must be designed so as not to operate during peak time at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary.</p>
Bollards	<p>Must not reduce any existing means of entry to, or exit from, any such associated development or the lot on which it is situated.</p>
Carport, within the meaning of the Codes SEPP	<p>Must not have a floor area of more than 100m. Must not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the <a href="#">Roads Act 1993</a>. Must not be located between the building line and the primary road.</p>

<p>Emergency services facilities—Wagga Wagga Activation Precinct only</p>	<p>Must be carried out by or on behalf of the NSW Rural Fire Service. Must not be constructed or installed on or in a heritage item, heritage conservation area, land on which an Aboriginal object is located or land at or below the flood planning level. Must be located on land in the Rural Activity Zone. Must not have an area of more than 140m. Must not exceed a height of 5m above ground level (existing). Must be located at a distance of at least 20m from the primary road frontage and at least 10m from each other lot boundary. Must not be constructed or installed within 50m of a dwelling. Must be located at least 50m from a natural waterbody. To the extent it is comprised of metal components—must be constructed of low reflective materials and designed and constructed in accordance with a professional engineer’s specifications. If it is located on bush fire prone land—must be constructed in accordance with the document titled <i>Planning for Bush Fire Protection</i> prescribed by the <a href="#">Environmental Planning and Assessment Regulation 2021</a>, section 271.</p>
<p>Emergency work and repairs, consisting of the repair of any damage to a building or structure caused by an event that constitutes a significant and widespread danger to life or property in land in the Activation Precinct in an area declared by an order under the <a href="#">State Emergency and Rescue Management Act 1989</a>, section 33 to be an area where a state of emergency exists</p>	<p>Must be carried out within 6 months of the declaration being made. Must not change the configuration of the floor space of the building or structure being repaired. Must not increase the floor space of the building or structure being repaired.</p>
<p>Farm building, other than a stock holding yard, grain silo or grain bunker—Parkes, Wagga Wagga and Moree Activation Precincts only</p>	<p>Must not be used for habitable purposes.</p>
<p>Stock holding yard—Parkes, Wagga Wagga and Moree Activation Precincts only</p>	<p>Must not be used for habitable purposes. Must not include or comprise a stock and sale yard. Must not be roofed. Must be located at least 10m from any road boundary and at least 200m from any other boundary. Must be located at least 200m from any dwelling that is located on land on the opposite side of a road that separates the landholding on which the development is located and that other lot. Must be located at least 6m from any other farm building, including any farm building that is a grain silo or grain bunker, on the landholding or on an adjoining landholding. Must be located at least 100m from a waterbody (natural).</p>

Grain silo or grain bunker—Parkes, Wagga Wagga and Moree Activation Precincts only	<p>Must not be used for habitable purposes. Must be located at least 100m from any dwelling. Must be located at least 6m from any other farm building, including any farm building that is a stock holding yard, on the landholding or on an adjoining landholding. Must be located at least 50m from a waterbody (natural).</p>
Signage—Parkes Activation Precinct only	<p>Must be a business identification sign and must not include advertising of goods or services. Must have the consent in writing of the owner of the land on which the sign is to be located and, if the sign or part of the sign projects over adjoining land, the consent of the owner of the adjoining land. Must be approved under section 138 of the <a href="#">Roads Act 1993</a>, if the sign or part of the sign projects over a public road, including a footway. Must not obstruct or interfere with a traffic sign.</p>
Signage—Wagga Wagga and Moree Activation Precincts only	<p>Must be a business identification sign or a building identification sign and not include advertising of goods or services. Must have the consent in writing of the owner of the land on which the sign is to be located and, if the sign or part of the sign projects over adjoining land, the consent of the owner of the adjoining land. Must be approved under section 138 of the <a href="#">Roads Act 1993</a>, if the sign or part of the sign projects over a public road, including a footway. Must not obstruct or interfere with a traffic sign. Must be erected at right angles to the wall of the building to which it is attached. Must not be illuminated or flashing. Must be constructed of non-reflective materials. Must not be more than 1.5m in area. Must not result in more than one building identification sign for the building. Must not result in more than one business identification sign for a business. Must not be located on or in a heritage item or heritage conservation area.</p>

Fuel tanks and gas storage (above ground)—Parkes, Wagga Wagga and Moree Activation Precincts only

Must not have a capacity of more than—

(a) for a fuel tank—5,000 L, or

(b) for a gas tank—1,000 L.

Must be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary.

Must be bunded with the capacity to contain at least 110% of the capacity of the tank.

Must be located at least 1m from any registered easement, sewer main or water main.

For a fuel tank—must be constructed of prefabricated metal, be freestanding and installed in accordance with the requirements of AS 1940:2017, *The storage and handling of flammable and combustible liquids*.

For a gas tank—must be designed and constructed in accordance with the requirements of AS/NZS 1596:2014, *The storage and handling of LP Gas* by a professional engineer.

**Note.**

Other existing legislative requirements still apply in relation to work health and safety issues.

Minor external non-structural building alteration, including the following—

(a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,

(b) the replacement of an external window, glazing areas or a door, other than those on bush fire prone land,

(c) the repair to or replacement of a non-structural wall or roof cladding,

(d) the installation of a security screen or grill to a door or window or a security door,

(e) the repair to or replacement of a balustrade,

(f) restumping or repairing structure foundations without increasing the height of the structure.

Must not reduce the existing fire resistance level of a wall or roof.

If located on bush fire prone land, must be adequately sealed or protected to prevent the entry of embers and must use equivalent or improved quality materials.

Must not affect any existing fire resisting components of the building.

Must not involve the use of external combustible cladding.

Must not affect the means of egress from the building in an emergency.

Rainwater tanks (above and below ground)—Parkes and Wagga Wagga Activation Precincts only	<p>Must not have a capacity of more than 25,000 litres.</p> <p>Must be fitted with a screened rain head designed to ensure self-cleaning and prevent leaf litter entering into the water tank.</p> <p>Must be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank.</p> <p>Must be constructed or installed with inlets and outlets designed to prevent mosquitoes breeding in it.</p> <p>Must have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners.</p> <p>Must have a sign affixed to it with a statement to the effect that the water in the tank is rainwater.</p> <p>If reticulated water is provided to the lot—must not be interconnected with any system supplying drinking water to the lot unless it complies with the Council’s requirements.</p>
Demolition of development that would be exempt development under this Policy, Chapter 3 if it were being constructed or installed	<p>If demolition involves the removal of asbestos, that removal must be undertaken in accordance with <i>How To Safely Remove Asbestos: Code of Practice</i>, ISBN 978 0 642 33317 9, published by Safe Work Australia in July 2020.</p>

Letter boxes

## Schedule 1D Snowy Mountains Activation Precinct

section 3.2(1), definition of “Activation Precinct”

### Part 1 Declaration and zoning

#### 1 Declaration of Snowy Mountains Activation Precinct

The land shown as Snowy Mountains Activation Precinct on the [Land Application Map](#) is declared to be the Snowy Mountains Activation Precinct.

#### 2 Consent authority for certain development

(1) The Planning Secretary is the consent authority for development on land in the Snowy Mountains Activation Precinct with an estimated development cost of more than \$2 million.

(2) In this section—

**estimated development cost** has the same meaning as in the [Environmental Planning and Assessment Regulation 2021](#).

### 3 Definitions

In this Schedule—

**agritourism** means the following—

- (a) farm experience premises,
- (b) farm gate premises.

**Blue Book** has the same meaning as in [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.

**Environmentally Sensitive Areas Map** means the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Snowy Mountains Activation Precinct Environmentally Sensitive Areas Map](#).

**farm experience premises** means a building or place on a working farm that—

- (a) is used to provide visitors to the farm with small scale and low impact tourist or recreational services on a commercial basis, including the following—
  - (i) horse riding,
  - (ii) farm tours,
  - (iii) functions or conferences,
  - (iv) farm field days, and
- (b) is ancillary to the farm.

**farm gate premises** means a building or place on a working farm, including cellar door premises, that—

- (a) is used to provide visitors to the farm with agricultural products predominantly from the farm or other farms in the region or with services or activities related to the products, including the following—
  - (i) processing, packaging and sale of the products, but not processing of animals,
  - (ii) a restaurant or cafe,
  - (iii) a facility for holding tastings or workshops, or providing information or education, related to the products, and
- (b) is ancillary to the farm.

**Land Application Map** means the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Snowy Mountains Activation Precinct Land Application Map](#).

**primary production business** has the same meaning as in the [Income Tax Assessment Act 1997](#) of the Commonwealth and includes a business that—

- (a) was a primary production business, and
- (b) has temporarily ceased to be a primary production business because of a natural disaster.

**staff accommodation** means a building used for the accommodation of staff employed to work in the Snowy Monaro Regional local government area.

**working farm** means a farm on which agriculture is undertaken that is—

- (a) a primary production business, or
- (b) on land categorised as farmland under the [Local Government Act 1993](#) section 515.

#### 4 Land use zones

The land use zones in the Snowy Mountains Activation Precinct are as follows—

SP1 Special Activities Zone

SP3 Tourist Zone

SP4 Enterprise Zone

RE1 Public Recreation Zone

#### 5 Zoning of land within Snowy Mountains Activation Precinct

For the purposes of this Schedule, land is within the zones shown on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Snowy Mountains Activation Precinct Land Zoning Map](#).

#### 6 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone—
  - (a) the objectives for development, and
  - (b) development that may be carried out without development consent, and
  - (c) development that may be carried out only with development consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in relation to land in the zone.
- (3) In the Land Use Table at the end of this Part—



- (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include, despite any definition in this Policy, Chapter 3 or this Schedule, a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the zone.
- (4) This section is subject to the other provisions of this Policy, Chapter 3 and this Schedule.

## **Land Use Table**

### **SP1 Special Activities**

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

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

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

Roads

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

Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Charter and tourism boating facilities; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Jetties; Kiosks; Marinas; Mooring pens; Moorings; Recreation areas; Recreation facilities (outdoor); Research stations; Restaurants or cafes; Water recreation structures; Wharf or boating facilities; The purpose shown on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Snowy Mountains Activation Precinct Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **SP3 Tourist**

### **1 Objectives of zone**

- To provide for tourist facilities, recreation, businesses and amenities in suitable locations.
- To ensure that services and infrastructure required to support the area can be delivered in an orderly way.
- To ensure development is consistent with the rural setting, environmental and scenic values and landscape features of the area.
- To enable development that complements development for tourism purposes without adversely affecting the retail hierarchy of local centres and villages.

### **2 Permitted without consent**

Extensive agriculture; Roads

### **3 Permitted with consent**

Agritourism; Artisan food and drink industries; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Community facilities; Creative industries; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Food and drink premises; Function centres; Helipads; Information and education facilities; Kiosks; Marinas; Markets; Mooring pens; Moorings; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Research stations; Roads; Staff accommodation; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities.

### **4 Prohibited**

Any development not specified in item 2 or 3

## **SP4 Enterprise Zone**

### **1 Objectives of zone**

- To provide for development and land uses that support enterprise and productivity.
- To provide a range of retail, business, recreation, entertainment and community uses to meet local and tourist needs.
- To ensure development is located to optimise access to and improve connectivity with the Lake Jindabyne foreshore.
- To promote the unique scenic and built character of Jindabyne and the Alpine region.
- To promote high quality urban design of built forms.

- To ensure that services and infrastructure required to support the area can be delivered in an orderly way.
- To provide for recreation, business and amenities in suitable locations.

## **2 Permitted without consent**

Environmental protection works; Home occupations; Roads

## **3 Permitted with consent**

Home industries; Any other development not specified in item 2 or 4

## **4 Prohibited**

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Cemeteries; Crematoria; Depots; Dwelling houses; Dual occupancies; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Industries; Mortuaries; Open cut mining; Research stations; Resource recovery facilities; Rural industries; Rural workers' dwellings; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Waste disposal facilities; Water recreation structures; Water recycling facilities

## **RE1 Public Recreation Zone**

### **1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes that support the Jindabyne town centre and activate the foreshore area.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

### **2 Permitted without consent**

Environmental facilities; Environmental protection works; Roads

### **3 Permitted with consent**

Boat sheds; Building identification signs; Business identification signs; Car parks; Charter and tourism boating facilities; Community facilities; Emergency services facilities; Information and education facilities; Kiosks; Marinas; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Research stations; Water recreation structures; Water storage facilities; Wharf and boating facilities

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Part 2 Exempt development**

#### **Division 1**

##### **7-9 (Repealed)**

##### **10 Exempt development**

- (1) The following provisions of the Codes SEPP apply to land in the Snowy Mountains Activation Precinct—
  - (a) for land in SP1 Special Activities Zone, excluding land in the Sports and Education Sub-precinct—clauses 2.9, 2.10, 2.23-2.24, 2.29, 2.30, 2.39-2.40B, 2.46A, 2.46B, 2.47, 2.48, 2.51, 2.52, 2.55-2.58, 2.72A-2.72D, 2.75-2.78, 2.96-2.105, 2.109, 2.110, 2.113-2.116, 2.121 and 2.122,
  - (b) for land in SP3 Tourist Zone—clauses 2.6A, 2.6B, 2.9-2.14, 2.23-2.24, 2.27-2.30, 2.31-2.32F, 2.37-2.40B, 2.42AA, 2.42AB, 2.46A, 2.46B, 2.47, 2.48, 2.51, 2.52, 2.54A-2.58, 2.71-2.72D, 2.75-2.78, 2.80A, 2.80B, 2.96-2.105, 2.109, 2.110, 2.113, 2.114, 2.121 and 2.122,
  - (c) for land in SP4 Enterprise Zone—clauses 2.6C, 2.6D, 2.9-2.14, 2.17, 2.18, 2.20A-2.20F, 2.21-2.24, 2.27-2.30, 2.30AC, 2.30AD, 2.37-2.40B, 2.42A-2.46B, 2.47, 2.48, 2.51, 2.52, 2.54A-2.62, 2.69-2.74, 2.74C-2.78, 2.96-2.101, 2.104-2.107, 2.109, 2.110, 2.113, 2.114, 2.117-2.122 and 2.129-2.132,
  - (d) for land in RE1 Public Recreation Zone—clauses 2.9, 2.10, 2.46A, 2.46B, 2.51, 2.52, 2.54A-2.58, 2.75-2.78, 2.80A, 2.80B, 2.96-2.103,
  - (e) for land in the Sports and Education Sub-precinct—
    - (i) the clauses specified in paragraph (a) for SP1 Special Activities Zone, and
    - (ii) clauses 2.11-2.14, 2.27, 2.28, 2.30AC, 2.30AD, 2.61, 2.62, 2.71 and 2.72.
- (2) Development specified in this subsection (1) is exempt development if the development—
  - (a) is exempt development for the purposes of the Codes SEPP, and
  - (b) is not on land identified as within an environmentally sensitive area on the [Environmentally Sensitive Areas Map](#), and
  - (c) is not on land on which a heritage item or Aboriginal object is located or land in a heritage conservation area or Aboriginal place of heritage significance, and

- (d) is carried out in accordance with the relevant provisions of the Blue Book.
- (3) Development specified in Schedule 1C is exempt development if the development—
  - (a) meets the standards specified for the development in Schedule 1C, and
  - (b) is not on land identified as within an environmentally sensitive area on the [Environmentally Sensitive Areas Map](#), and
  - (c) is not on land on which a heritage item or Aboriginal object is located or land in a heritage conservation area or Aboriginal place of heritage significance, and
  - (d) is carried out in accordance with the relevant provisions of the Blue Book, and
  - (e) meets the relevant provisions of the *Building Code of Australia*, and
  - (f) is installed in accordance with the manufacturer's specifications, if applicable.
- (4) In this section—

**Sports and Education Sub-precinct** means the Sports and Education Sub-precinct identified on the [Land Application Map](#).

## Part 3 Miscellaneous

### 11 Preservation of trees and vegetation

- (1) The objectives of this section are as follows—
  - (a) to preserve the amenity of the Snowy Mountains Activation Precinct through the preservation of trees and vegetation,
  - (b) to promote the conservation of native vegetation,
  - (c) to minimise the impact of development on native vegetation.
- (2) This section applies to land identified as within an environmentally sensitive area on the [Environmentally Sensitive Areas Map](#).
- (3) A person must not clear native vegetation on land to which this section applies without development consent.
- (4) Development consent under subsection (3) must not be granted unless the consent authority is satisfied that, in relation to the disturbance of native vegetation caused by the clearing—
  - (a) there is no reasonable alternative available to the disturbance of the native vegetation, and
  - (b) any impact of the proposed clearing on biodiversity values is avoided or

minimised, and

- (c) the disturbance of the native vegetation will not increase salinity, and
- (d) native vegetation inadvertently disturbed for the purposes of construction will be reinstated where possible on completion of construction, and
- (e) the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation, and
- (f) 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.

- (5) *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 2 does not apply to land to which this section applies.

## 12 Heritage conservation

- (1) *Snowy River Local Environmental Plan 2013*, clause 5.10 applies to the heritage items specified in the following table in the same way as it applies to heritage items under that Plan—

Suburb	Item name	Address	Property description	Significance	Item no
Jindabyne	Jindabyne Winter Sports Academy	207 Barry Way	Lot 101, DP 1019527	Local	146
Jindabyne	St Andrew's Uniting Church	19 Gippsland Street	Lot 10, DP 219583	Local	150
Jindabyne	Jindabyne Foreshore Park	Banjo Patterson Park, Kosciuszko Road	Lot 6, DP 239537	Local	151
Jindabyne	Strzelecki monument	Banjo Patterson Park, Kosciuszko Road	Lot 6, DP 239537	Local	152
Jindabyne	Memorial Hall	45 Kosciuszko Road	Lot 30, DP 227005	Local	154
Jindabyne	St Andrew's Anglican Church	3 Park Road	Lot 146, DP 219583	Local	155

- (2) A reference in *Snowy River Local Environmental Plan 2013*, clause 5.10 to the consent authority is to be read as a reference to the consent authority for the Snowy Mountains Activation Precinct.

### **13 Application of Snowy River Local Environmental Plan 2013**

*Snowy River Local Environmental Plan 2013*, clauses 2.6–2.8, 5.1, 5.2, 5.8, 5.11, 5.13 and Schedule 4 apply to land in the Snowy Mountains Activation Precinct in the same way as they apply to land to which that Plan applies.

### **14 Application of State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2**

- (1) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 applies to land in the Snowy Mountains Activation Precinct, subject to the modifications set out in this section.
- (2) SP3 Tourist and SP4 Enterprise Zones are taken to be the following zones for the specified provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021*—
  - (a) a prescribed rural, industrial or special use zone for Part 2.3, Division 4,
  - (b) a prescribed zone for sections 2.52, 2.106, 2.107, 2.109, 2.126 and 2.159(4),
  - (c) an equivalent land use zone for section 2.159(2).
- (3) *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.41(1) and 2.126(3) do not apply to land in the Snowy Mountains Activation Precinct.

### **15 Existing development applications**

A development application for development on land in the Snowy Mountains Activation Precinct that was lodged before the land was part of that Activation Precinct and that has not been finally determined is to be determined as if this Schedule had not commenced.

## **Schedule 1E Complying development—Chapter 3**

sections 3.18 and 3.21

### **Part 1 General development standards**

#### **1 Stormwater management systems**

- (1) This section applies to development involving building work.
- (2) A stormwater management system must be installed before building work commences.
- (3) The stormwater management system must—
  - (a) be designed by a suitably qualified person, and
  - (b) be approved by the Development Corporation, and

- (c) be constructed in accordance with AS/NZS 3500.3:2021, *Plumbing and drainage, Part 3: Stormwater drainage*, and
- (d) have a system capacity designed in accordance with—
  - (i) *Australian Rainfall and Runoff: A Guide to Flood Estimation*, 4th edition, published by the Commonwealth of Australia in 2019, and
  - (ii) *Managing Urban Stormwater—Council Handbook*, published by the Environment Protection Authority in 1997.

## 2 Flood planning areas

- (1) This section applies to development carried out in a flood planning area.
- (2) The development must have a minimum floor level no lower than the floor levels specified in a development control plan or delivery plan that applies to the land.
- (3) Subsection (2) does not apply if a professional engineer specialising in hydraulic engineering and a professional engineer specialising in civil engineering jointly certify that the part of the development at or below the floor levels required under subsection (2)—
  - (a) is constructed of flood compatible materials, and
  - (b) is able to withstand a 1% annual exceedance probability flood event without significant damage.
- (4) Words used in this section have the same meaning as in the Flood Risk Management Manual, unless otherwise defined.
- (5) In this section—

**Flood Risk Management Manual** means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

**professional engineer** has the same meaning as in the *Building Code of Australia*.

## 3 Construction environmental management plans

- (1) Building work must be carried out in accordance with a plan that ensures appropriate environmental management practices are followed during construction (a **construction environmental management plan**).
- (2) A construction environmental management plan must deal with the following matters—
  - (a) the location of, and materials to be used for, safety fencing and hoardings,
  - (b) ensuring public safety while the building work is carried out,



- (c) pedestrian and vehicular access,
  - (d) construction activity zones,
  - (e) construction traffic management,
  - (f) the protection of trees on site,
  - (g) the carrying out of bulk earthworks,
  - (h) the location of site storage areas and sheds,
  - (i) the equipment to be used to carry out the building work,
  - (j) dust, noise and vibration measures,
  - (k) the location of temporary toilets.
- (3) The construction environmental management plan must be submitted to the Development Corporation and the principal certifier at least 2 days before building work commences on the site.
- (4) The construction environmental management plan must be prepared by a suitably qualified person.
- (5) The construction environmental management plan must be kept on site while building work is carried out.

#### **4 Access by emergency services**

Access to and around the development for emergency services vehicles must be maintained.

#### **5 Cleaning up liquid spills**

Liquid spills must be cleaned up with absorbent materials and must not drain into the stormwater system.

#### **6 Earthworks**

- (1) Earthworks, including a structural retaining system or other related structure, for the purposes of the development must not—
- (a) cause danger to life or property, or
  - (b) cause damage to an adjoining building on the lot on which the earthworks are carried out, or
  - (c) cause damage to a building on an adjoining lot, or
  - (d) redirect the flow of surface or ground water onto an adjoining property, or

- (e) cause sediment to be transported onto an adjoining property.
- (2) The earthworks must preserve topsoil on site for reuse.
- (3) Excavated material removed from the site must be disposed of in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014*.
- (4) Excavation must be carried out in accordance with *Excavation Work: Code of Practice*, published by Safe Work Australia in October 2018.
- (5) Fill brought to the site must contain only—
  - (a) virgin excavated natural material within the meaning of the *Protection of the Environment Operations Act 1997*, Schedule 1, or
  - (b) fill reused in accordance with an excavated natural material exemption under the *Protection of the Environment Operations (Waste) Regulation 2014*, Part 9.

## **Part 2 Development standards for certain types of complying development**

### **7 Solar energy farms**

- (1) This section applies to development for the purposes of solar energy farms.
- (2) The development must—
  - (a) be designed, constructed and maintained to reduce the impact of the development on surface water, flooding and ground water at the site, and
  - (b) be designed, constructed and maintained to avoid erosion at the site, and
  - (c) minimise the risk of fire, including in relation to managing vegetation.
- (3) If the development is carried out on bush fire prone land, the development must conform to the specifications and requirements of *Planning for Bush Fire Protection* that are relevant to the development.
- (4) In this section—

***Planning for Bush Fire Protection*** means the document entitled *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, published by the NSW Rural Fire Service in November 2019.

### **8 Driveways, hardstand areas, pathways and paved areas**

- (1) This section applies to the construction or installation of the following—
  - (a) a pathway or paved area,

- (b) a driveway associated with access to a hardstand area, carport, loading bay or garage,
  - (c) a hardstand area, whether open or part of a carport.
- (2) The development must—
- (a) not interfere with the functioning of existing drainage fixtures or flow paths, and
  - (b) not require a cut or fill of more than 2m below or above ground level (existing).
- (3) A driveway or hardstand area must—
- (a) be constructed in accordance with—
    - (i) AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking* or AS 2890.2:2018, *Parking facilities, Part 2: Off-street commercial vehicle facilities*, and
    - (ii) *RMS Australian Standard Supplements, Australian Standard—AS2890, Parking Facilities, Parts 1-6*, issued by Transport for NSW, and
  - (b) be designed to allow all vehicles to turn around within the site and exit in a forward direction, and
  - (c) be designed and certified by a professional engineer within the meaning of the *Building Code of Australia*.
- (4) A hardstand area must be—
- (a) associated with a driveway, and
  - (b) located at least 3m from a boundary that adjoins a residential zone.
- (5) A pathway or paved area used for pedestrian access must be designed and constructed in accordance with AS 1428.1—2009, *Design for access and mobility, Part 1: General requirements for access—New building work*.

## **9 Awnings and canopies**

- (1) This section applies to the construction or installation of an awning or canopy.
- (2) The awning or canopy must be certified by a qualified engineer as having a satisfactory design.

## **10 Emergency services equipment**

- (1) This section applies to the construction, installation, upgrade or replacement of emergency services equipment, including the following—
  - (a) fire systems,

- (b) pumphouses,
  - (c) fire water tanks,
  - (d) other essential fire safety facilities.
- (2) The development must not—
- (a) reduce the level of fire safety of a building, or
  - (b) detrimentally affect the structural integrity of a building, or
  - (c) alter or extend an existing fire sprinkler system of a building that is unsuitable for the level of fire hazard arising from the use of the building unless the alteration or extension is for the purposes of, or includes, the upgrade of the fire sprinkler system so it is suitable for that level of fire hazard.

#### **11 Road and rail terminal facilities**

- (1) This section applies to the erection of terminal facilities for the unloading, loading or discharge of freight carried by road or rail, including a dump station or rail loading gantry crane.
- (2) The facility must be certified by a qualified engineer as having a satisfactory design and structural integrity.

### **Part 3 Complying development certificate conditions**

#### **Division 1 General**

##### **12 Notice to Development Corporation**

- (1) The person having the benefit of the complying development certificate must notify the Development Corporation at least 2 days before each of the following—
  - (a) the commencement of the building work authorised by the certificate,
  - (b) the commencement of the occupation or use of the development,
  - (c) the end of the occupation or use of the development.
- (2) The waste management plan required for demolition work under the Codes SEPP, Schedule 9, clause 3, as applied by this Policy, section 3.21, must be provided to the Development Corporation at least 2 days before demolition work commences.

##### **13 Garbage and waste storage**

- (1) A garbage and waste storage area for recyclable and non-recyclable waste and receptacles for the waste must be provided as part of the development.

- (2) The garbage and waste storage area must—
  - (a) be screened, and
  - (b) not be located in a landscaped area, driveway, turning area, truck standing area or car parking area.
- (3) All waste must be stored in the garbage and waste storage area.
- (4) All waste must be classified in accordance with the *Waste Classification Guidelines, Part 1: Classifying Waste*, published by the Environment Protection Authority in November 2014.

#### **14 Adjoining buildings**

- (1) Before commencing demolition or excavation works, the person having the benefit of the complying development certificate must obtain a dilapidation report on any part of a building that is within 2m of the works.
- (2) The report must be prepared by a suitably qualified engineer.
- (3) If the person preparing the report does not have access to the building for the purposes of an inspection, the report may be prepared from an external inspection.

#### **15 Hours for construction work**

- (1) Construction work may be carried out—
  - (a) between 7am and 6pm on Monday to Friday, and
  - (b) between 8am and 1pm on Saturday.
- (2) Construction work must not be carried out on a Sunday or public holiday.
- (3) Construction work may be carried out outside the hours specified in subsections (1) and (2) if the construction work generates noise no louder than—
  - (a) 5dB(A) above the rating background level at any adjoining residence, in accordance with the *Interim Construction Noise Guideline*, published by the Department of Environment and Climate Change in July 2009, or
  - (b) the noise management levels specified in Table 3 of the guideline at other sensitive receivers.
- (4) This section does not apply to the delivery of materials if prior approval has been obtained from the NSW Police Force or another relevant public authority.
- (5) This section does not apply to construction works carried out—
  - (a) in an emergency, or

- (b) to avoid loss of life or property, or
- (c) to prevent environmental harm.

## **16 Vibration**

Building work, subdivision work and demolition work must comply with—

- (a) DIN 4150-3:2016-12, *Vibration in Buildings—Part 3: Effects on Structures*, and
- (b) *Assessing Vibration: A Technical Guideline*, published by the Department of Environment and Conservation in February 2006.

## **17 Emergency facilities**

Fire watch measures must be implemented during any period when work on existing alarm signalling equipment results in a loss of a monitoring service.

## **18 Bridges, cranes, ship loaders and other transport infrastructure**

- (1) This section applies to development that consists of the construction or installation of the following—
  - (a) a bridge used for a purpose other than a road,
  - (b) a rail-mounted crane, crane rails for a rail-mounted crane or a fixed crane,
  - (c) a ship loader or unloader,
  - (d) a cargo handling facility,
  - (e) a dry bulk storage silo,
  - (f) a road or rail terminal facility,
  - (g) a stacker, reclaimer or stacker-reclaimer,
  - (h) a wharf or berthing infrastructure,
  - (i) a conveyor system.
- (2) A certificate by a qualified engineer must be provided to the principal certifier, before the principal certifier carries out the final inspection, certifying that the item—
  - (a) has been installed in accordance with the design specifications certified by a qualified engineer, and
  - (b) is structurally adequate.

## Division 2 Potential hazardous industry

### 19 Application of Division

- (1) This Division applies to development for the purposes of a potentially hazardous industry.
- (2) In this Division, a reference to a *Hazardous Industry Planning Advisory Paper* is a reference to the *Hazardous Industry Planning Advisory Papers* published by the Department in is January 2011 and available on the Department's website.
- (3) In this Division—

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

### 20 Fire safety and hazards

- (1) At least 1 month before the commencement of building work under the complying development certificate, the following must be provided to the principal certifier—
  - (a) a fire safety study prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 2: Fire Safety Study Guidelines*,
  - (b) a hazard and operability study prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 8: HAZOP Guidelines*,
  - (c) a hazard analysis prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 6: Hazard Analysis*.
- (2) The studies and analysis referred to in subsection (1) must be prepared by a person approved by the Planning Secretary.
- (3) Before the commencement of occupation or use of the development, a certificate issued by a person approved by the Planning Secretary must be provided to the principal certifier stating that the development has been constructed in a way that incorporates and complies with the recommendations in the studies and analysis provided to the principal certifier under subsection (1).

### 21 Construction safety

- (1) At least 1 month before the commencement of building work under the complying development certificate, a construction safety study must be provided to the principal certifier.
- (2) The study must be prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 7: Construction Safety*.
- (3) The development must comply with any recommendations contained in the study.

## **22 Transport of hazardous materials, emergencies and safety management**

- (1) At least 2 months before the commencement of occupation or use of the development, the following must be provided to the principal certifier—
  - (a) detailed information about the arrangements for the transport of hazardous materials involved in the development, prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 11: Route Selection*,
  - (b) an emergency plan prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 1: Emergency Planning*,
  - (c) a safety management system prepared in accordance with the *Hazardous Industry Planning Advisory Paper No 9: Safety Management*.
- (2) No later than 3 months after commencing occupation or use of the development, a report demonstrating how the development complies with the arrangements, plan and system referred to in subsection (1) must be provided to the principal certifier.

## **23 Hazard audits**

- (1) A hazard audit of the development must be provided to the principal certifier no later than—
  - (a) 1 year after the commencement of occupation or use of the development, and
  - (b) every 3 years after the first hazard audit.
- (2) A hazard audit must—
  - (a) be carried out by a person approved by the Planning Secretary, and
  - (b) comply with the *Hazardous Industry Planning Advisory Paper No 5: Hazard Audit Guidelines*.

## **Schedule 2 Exempt development—Chapter 4**

section 4.11

### **1 Minor internal building alterations**

- (1) A minor internal alteration to a building to replace or renovate the following—
  - (a) an internal window, doorway, wall, ceiling or floor lining,
  - (b) deteriorated materials, including stairs and stairwells,
  - (c) a kitchen or bathroom,
  - (d) a built-in fixture, including a vanity, cupboard or wardrobe,



- (e) a sanitary fixture, including a grease trap,
  - (f) shelving or racking,
  - (g) a partition, work station or counter.
- (2) The development must not be carried out on the following—
- (a) an area used to carry out skin penetration procedures, within the meaning of the *Public Health Act 2010*,
  - (b) hairdressing premises,
  - (c) an area used for the purposes of a food business, within the meaning of the *Food Act 2003*,
  - (d) a heritage item,
  - (e) a swimming pool or spa pool.
- (3) The development must not—
- (a) increase the gross floor area of the building, or
  - (b) alter the load-bearing capacity of a load-bearing component of the building, or
  - (c) alter or replace a form of construction in the building that ensures the safety of persons in the building if there is a fire, including plasterboard and wall linings, or
  - (d) alter the building's emergency exits, or
  - (e) reduce the size or number of windows in the building, or
  - (f) reduce the size of a doorway in the building, or
  - (g) enclose an open area in the building, or
  - (h) relocate, or alter the number of, kitchens or bathrooms in the building, or
  - (i) change the configuration of a room, whether by removal of a wall or partition or other means.
- (4) If the development involves the replacement or renovation of deteriorated materials, equivalent or higher quality materials must be used.
- (5) Development involving a building used for the purposes of staff accommodation or tourist and visitor accommodation must not alter the size or number of bedrooms in the building.

## 2 Minor external building alterations

- (1) A minor external non-structural alteration to a building, including the following—
  - (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,
  - (b) repair of a non-structural wall or roof cladding,
  - (c) installation of a security screen or grille on a door or window within 5m from a road boundary,
  - (d) installation of a security door within 5m from a road boundary,
  - (e) repair or replacement of a balustrade,
  - (f) repair or replacement of an external window, glazed area or door.
- (2) The development must not—
  - (a) increase the gross floor area of the building, or
  - (b) alter the load-bearing capacity of a load-bearing component of the building, or
  - (c) alter or replace a form of construction in the building that ensures the safety of persons in the building if there is a fire, including plasterboard and wall linings, or
  - (d) reduce the existing fire resistance level of a part of the building, or
  - (e) alter the building's emergency exits, or
  - (f) increase the size of a wall, doorway, window, roof or skylight in the building.
- (3) The development must not be carried out on—
  - (a) a heritage item, or
  - (b) a swimming pool or spa pool.
- (4) The development must not be carried out in the flame zone (BAL-FZ), within the meaning of AS 3959:2018, *Construction of buildings in bushfire-prone areas*.
- (5) If the building is on bush fire prone land, the development must not result in the building—
  - (a) not being adequately sealed or protected against the entry of embers, or
  - (b) comprising materials that do not comply with the *Building Code of Australia*, or
  - (c) not complying with AS 3959:2018, *Construction of buildings in bushfire-prone areas*, or

(d) not complying with the requirements of *Planning for Bush Fire Protection*.

(6) Equivalent or higher quality materials must be used.

### **3 Minor ancillary structures**

(1) The construction or installation of a structure that is ancillary to a permitted use, other than a swimming pool or spa pool.

(2) The ancillary structure must—

(a) be at least 1m from each boundary of a lease or licence area, and

(b) have a gross floor area of no more than 10m<sup>2</sup>, and

(c) have a height of no more than 2m above ground level (existing).

(3) Subsection (2)(c) does not apply to a safety barrier on an ancillary structure.

(4) The construction, installation and use of the ancillary structure must not involve the handling, use or storage of hazardous chemicals or materials.

(5) The ancillary structure must not interfere with the functioning of existing drainage fixtures or flow paths.

(6) An ancillary structure on bush fire prone land must be made of non-combustible materials.

### **4 Change of use of building**

(1) A change of use from—

(a) a lawful use for the purposes of office premises to a use for the purposes of shops,  
or

(b) a lawful use for the purposes of shops to a use for the purposes of office premises.

(2) The new use must be permitted with development consent under this Policy, Chapter 4.

(3) The change of use must not involve building alterations, other than alterations that are exempt development under this Policy, Chapter 4.

(4) A new use for the purposes of shops must not involve the following—

(a) the handling, preparation or storage of food for sale or consumption,

(b) use for the purposes of hairdressing premises,

(c) the carrying out of skin penetration procedures, within the meaning of the *Public Health Act 2010*.

## **5 Advertising structures and advertisements**

- (1) The display of an advertisement, including the erection of an advertising structure on which the advertisement is displayed.
- (2) The advertising structure must be attached to a building.
- (3) The advertisement, including the advertising structure on which it is displayed, must not have an area of more than—
  - (a) if the advertising structure is attached to recreation infrastructure, lifting facilities or snow-making infrastructure— $1\text{m}^2$ , or
  - (b) otherwise— $3\text{m}^2$ .
- (4) If the advertisement is displayed above a public road, the advertisement and advertising structure must be at least 2.6m above the road.
- (5) The advertisement and advertising structure must not be illuminated.
- (6) The advertisement and advertising structure must not be located on or in a heritage item, unless the advertisement is replacing an existing advertisement.

## **6 Public notices of public authorities**

The construction or installation of a sign, by or on behalf of a public authority, that is a public notice providing only information or directions, or both, in relation to a service provided by the public authority.

## **7 Signs relating to safety**

The construction or installation of a sign the purpose of which is to ensure the safety of—

- (a) workers on the site at which the sign is located, or
- (b) the general public.

## **8 Construction or installation of building identification signs and business identification signs**

- (1) The construction or installation of a building identification sign or business identification sign on premises to which the sign relates.
- (2) The sign must be—
  - (a) displayed behind a window on the premises, or
  - (b) attached to the outside of the premises.
- (3) The sign must not have an area of more than  $3\text{m}^2$ .

## **9 Replacement of building identification signs and business identification signs**

- (1) The replacement of—
  - (a) an existing lawful building identification sign or business identification sign, or
  - (b) the content of an existing lawful building identification sign or business identification sign.
- (2) The new sign must not—
  - (a) be greater in size than the existing sign, or
  - (b) be animated, flashing or illuminated, unless the existing sign is illuminated, or
  - (c) involve an alteration to the structure or vessel on which the sign is displayed, or
  - (d) obstruct or interfere with traffic signs.

## **10 Street furniture**

- (1) The installation of street furniture, including benches, bollards and garbage enclosures, on a public footpath or in a plaza.
- (2) The street furniture must—
  - (a) not prevent or extensively restrict use of the footpath or plaza, and
  - (b) be firmly anchored.
- (3) Garbage enclosures must be animal-proof.

## **11 Aerials, antennae and communication dishes**

- (1) The installation of an aerial, antenna or communication dish on a building.
- (2) The installation must not result in more than 1 aerial, 1 antenna and 1 communication dish for each building.
- (3) The aerial, antenna or communication dish must not be—
  - (a) more than 900mm in diameter, or
  - (b) higher than 1.8m above the highest point of the roof of the building.
- (4) The aerial, antenna or communication dish must be firmly anchored.
- (5) If the building is a heritage item, the aerial, antenna or communication dish must be—
  - (a) attached to the rear wall and roof plane of the building, and
  - (b) no higher than the highest point of the roof of the building.

- (6) The development must not involve structural alterations to the building.

**12 Driveways, hardstand areas, pathways and paved areas**

- (1) The repair or maintenance of a driveway, hardstand area, pathway or paved area in a lease or licence area.
- (2) The driveway, hardstand area, pathway or paved area must not be on or in a heritage item.
- (3) Equivalent or higher quality materials must be used.

**13 Air-conditioning units—tourist and visitor accommodation and staff accommodation**

- (1) The construction or installation of an air-conditioning unit for use in tourist and visitor accommodation or staff accommodation.
- (2) The air-conditioning unit must not be located—
- (a) on the wall or roof of a building facing the primary road, or
  - (b) forward of the building line to the primary road.
- (3) The air-conditioning unit must be located at least—
- (a) 450mm from each lot boundary, and
  - (b) 1m from bedrooms of adjoining residences.
- (4) The air-conditioning unit must be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained in, the building.
- (5) The air-conditioning unit must not—
- (a) be higher than 1.8m above ground level (existing), or
  - (b) reduce the existing fire resistance level of a wall.
- (6) The construction, installation or use of the air-conditioning unit must not reduce the structural integrity of a building.
- (7) Subject to subsection (8), the air-conditioning unit must be—
- (a) attached to the external wall of a building, or
  - (b) ground-mounted.
- (8) An air-conditioning unit constructed or installed on or in a heritage item must be—
- (a) ground-mounted, and
  - (b) installed at or behind the rear building line.

- (9) The air-conditioning unit must be designed not to operate—
  - (a) during peak time—at a noise level more than 5dB(A) above the ambient background noise level measured at a property boundary, or
  - (b) during off-peak time—at a noise level that is audible in habitable rooms of adjoining accommodation.

#### **14 Air-conditioning units—other**

- (1) The construction or installation of an air-conditioning unit for use other than in tourist and visitor accommodation or staff accommodation.
- (2) The air-conditioning unit must not be located—
  - (a) on the wall or roof of a building that faces the primary road, or
  - (b) forward of the building line to the primary road.
- (3) If the air-conditioning unit is installed on an external wall, the air-conditioning unit must be at least—
  - (a) 3m from each side and rear lot boundary, and
  - (b) 6m from other buildings on the lot.
- (4) The construction, installation or use of the air-conditioning unit must not reduce the structural integrity of a building.
- (5) An air-conditioning unit constructed or installed on or in a heritage item must not be wall-mounted.
- (6) The air-conditioning unit must be designed not to operate at a noise level that is audible in habitable rooms of adjoining residences.
- (7) The construction, installation and use of an air-conditioning unit on bush fire prone land must be in accordance with—
  - (a) *Planning for Bush Fire Protection*, and
  - (b) AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

#### **15 Emergency works**

- (1) Works for the purposes of maintaining or restoring—
  - (a) infrastructure in a lease or licence area, or
  - (b) emergency services equipment.
- (2) The works must be necessary to ensure public safety or to protect buildings or the

environment due to the actual or imminent occurrence of—

- (a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or earthquake, or
  - (b) an accident, equipment failure or structural collapse, or
  - (c) damage caused by vandalism or arson.
- (3) The works must disturb soil or vegetation only to the extent necessary to carry out the development.
- (4) The works must not affect the heritage value of a heritage item any more than is necessary to carry out the development.
- (5) As soon as practicable after carrying out development under this section, the person carrying out the development must notify the Planning Secretary.

#### **16 Entertainment associated with existing premises**

(1) Performance of live music or arts in existing premises that—

- (a) is carried out inside a building, and
- (b) does not contravene an existing relevant condition of the most recent development consent, other than a complying development certificate, that applies to the premises.

(2) In this section—

**existing relevant condition** means a condition relating to the following—

- (a) the number of persons permitted in a building,
- (b) hours of operation,
- (c) noise, other than a condition referred to in the *Liquor Act 2007*, Schedule 1, clause 70(1),
- (d) car parking, vehicular movement and traffic generation,
- (e) waste management,
- (f) landscaping.

#### **17 Hot water systems**

- (1) The construction or installation of a hot water heater or hot water storage tank.
- (2) If the development uses a heat pump water heater, the heat pump water heater must be designed not to operate—



- (a) during peak time—at a noise level more than 5dB(A) above the ambient background noise level measured at a property boundary, or
  - (b) during off-peak time—at a noise level that is audible in habitable rooms of adjoining tourist and visitor accommodation or staff accommodation.
- (3) A hot water heater or hot water storage tank that is constructed or installed externally on or in a heritage item must—
- (a) not be located on a roof, and
  - (b) not be visible from a road, and
  - (c) be located behind the building line of a road frontage.

### **18 Playground equipment**

- (1) The construction or installation of playground equipment.
- (2) The playground equipment must—
  - (a) not be higher than 2.5m above ground level (existing), and
  - (b) be located at least 450mm from each side and rear lot boundary, and
  - (c) have an area of no more than 150m<sup>2</sup>.
- (3) In this section—
  - playground equipment—***
    - (a) includes slides, swings and trampolines, and
    - (b) excludes skateboard ramps, bicycle ramps, jumps, walls and pump tracks.

### **19 Lighting**

- (1) The construction or installation of lighting, including structures for external lighting, carried out by or on behalf of a public authority or resort operator.
- (2) External lighting must comply with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*.
- (3) Light spill and artificial sky glow must be minimised in accordance with the Lighting for Roads and Public Spaces Standard.
- (4) Lighting in a lease or licence area must be mounted, screened and directed to not create a nuisance or light spill onto land outside the lease or licence area.
- (5) The lighting must not be higher than—

- (a) 10m above ground level (existing), or
- (b) if erected on or attached to a building—1m above the highest point of the building.

(6) In this section—

**Lighting for Roads and Public Spaces Standard** has the same meaning as in [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.

**resort operator** means a person acting on behalf of a corporation holding a lease or licence under the [National Parks and Wildlife Act 1974](#) in relation to the following Alpine Subregions—

- (a) Charlotte Pass Alpine Resort,
- (b) Mount Selwyn Alpine Resort,
- (c) Perisher Range Alpine Resort,
- (d) Thredbo Alpine Resort.

## 20 Demolition

(1) The following demolition works—

- (a) the demolition of development that is exempt development under this Policy, Chapter 4,
- (b) the demolition of a building, if the structure of the building is significantly damaged by a natural disaster,
- (c) the partial demolition of a building damaged by a natural disaster, if the structure of the building is not significantly damaged, to the extent necessary to make the building safe.

(2) Demolition works must—

- (a) not be carried out on or in a heritage item, and
- (b) be carried out in accordance with AS 2601—2001, *The demolition of structures*.

## 21 Construction or installation of structures on recreation infrastructure and ski slopes

(1) The construction or installation of the following structures on recreation infrastructure or a ski slope, for the purposes of recreational activities including skiing—

- (a) signs with an area of no more than 2.5m<sup>2</sup>,
- (b) structures related to snow sports that are fully embedded in or fully supported by snow,

(c) other structures that are no higher than 3m above ground level (existing).

(2) The structures must be in place for no more than 22 weeks in a calendar year.

## **22 Other development on recreation infrastructure and ski slopes**

(1) The construction or installation of a fence on recreation infrastructure or a ski slope that is no higher than 3m above ground level (existing).

(2) The annual or routine maintenance of recreation infrastructure or a ski slope, including slashing and trimming plant regrowth.

(3) The removal or pruning of a tree or other vegetation, above ground level (existing), that is—

(a) overhanging a building, lifting facility, infrastructure facility, snow-making infrastructure, the Skitube, recreation infrastructure or a ski slope, or

(b) dead or dying and located on or immediately adjacent to a building, lifting facility, infrastructure facility, snow-making infrastructure, the Skitube, recreation infrastructure or a ski slope.

## **23 Repair, maintenance and replacement of parts of lifting facilities and snow-making infrastructure**

(1) The repair, maintenance or replacement of part of a lifting facility or snow-making infrastructure that is necessary to maintain or restore the facility or infrastructure to safe working order.

(2) The development must be carried out in accordance with—

(a) the requirements or recommendations of the manufacturer of the lifting facility or snow-making infrastructure, and

(b) AS 4722:2018, *Passenger ropeways and passenger conveyors*, to the extent the Standard applies to the lifting facility.

(3) The development must not involve the creation of—

(a) a new access track or management trail, or

(b) a change in the capacity of a lifting facility.

(4) The development must not result in—

(a) a reduction of the structural integrity of the lifting facility or snow-making infrastructure, or

(b) a change to the extent or location of earthworks, other than the depth of earthworks.

- (5) Equivalent or higher quality materials must be used.
- (6) The lifting facility or snow-making infrastructure must be able to resist loads in accordance with the following—
  - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
  - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
  - (c) AS/NZS 1170.2:2021, *Structural design actions—Wind actions*.

#### **24 Electric vehicle chargers**

- (1) The construction or installation of an electric vehicle charger for use by the public.
- (2) The electric vehicle charger must be constructed or installed on an existing driveway, hardstand area or paved area.
- (3) An electric vehicle charger constructed or installed in an existing car park must comply with AS/NZS IEC 60079.10.1:2022, *Explosive atmospheres—Classification of areas—Explosive gas atmospheres*.

#### **25 Solar energy systems**

- (1) The construction or installation of a solar energy system that is not ground-mounted.
- (2) The solar energy system must be installed—
  - (a) for a photovoltaic electricity generating system—
    - (i) in accordance with the manufacturer’s specifications, or
    - (ii) by a person accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems, or
  - (b) otherwise—in accordance with the manufacturer’s specifications.
- (3) The solar energy system must not—
  - (a) involve mirrors or lenses to reflect or concentrate sunlight, or
  - (b) reduce the structural integrity of a building to which the system is attached, or
  - (c) involve structural alterations to a building to which the system is attached.
- (4) If the solar energy system is attached to a wall or roof facing a primary road, the system must not protrude more than 0.5m from the wall or roof.
- (5) If the solar energy system is not attached to a wall or roof facing a primary road, the system must not—

- (a) protrude more than 1m from a building to which it is attached, or
  - (b) be installed within 1m from an adjoining property boundary, if the system protrudes more than 0.5m from a building to which it is attached.
- (6) A solar energy system on land that contains a heritage item must not—
- (a) be attached to a wall or roof of a building facing a primary road, or
  - (b) protrude more than 0.5m from a building to which it is attached.
- (7) For this section, the distance between a solar energy system and a building to which the system is attached must be measured from the point of attachment.
- (8) In this section—
- solar energy system** means the following—
- (a) a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—
    - (i) carried out on the land on which the system is located, or
    - (ii) carried out by the owner of the system on adjoining land,
  - (b) a solar hot water system,
  - (c) a solar air heating system.

## 26 Small-scale battery systems

- (1) The construction or installation of a small-scale battery system.
- (2) The small-scale battery system must—
  - (a) comply with *AS/NZS 5139:2019 Electrical installations—Safety of battery systems for use with power conversion equipment*, and
  - (b) be approved by the Clean Energy Council, and
  - (c) be installed by a person accredited by the Clean Energy Council for the installation of small-scale battery systems, and
  - (d) not be capable of storing more than 20kWh of energy, and
  - (e) for land containing a heritage item—be attached to the rear wall of an existing building.
- (3) The development must not result in the installation of more than 1 small-scale battery system on a property.

(4) In this section—

***small-scale battery system*** means a battery system designed only for the purposes of the storage of photovoltaic solar energy generated from a solar energy system.

## **27 Mobile food and drink outlets**

(1) Retail sale of food, drinks and related products on land from a mobile outlet.

**Example—**

a food truck, van, cart or other similar vehicle

(2) The development must—

- (a) be carried out by a food business within the meaning of the *Food Act 2003*, and
- (b) be carried out between 6am and 10pm only.

(3) The development must not—

- (a) restrict vehicular or pedestrian access to or from the land or entry to a building on the land, or
- (b) obstruct the operation of, or access to, utility services on the land or adjacent land, or
- (c) be located on native vegetation, or
- (d) result in damage to native vegetation growing on the land or adjacent land, or
- (e) result in damage to public property on the land or adjacent land.

## **28 Construction, installation and removal of structures for community events**

(1) The construction, installation and removal of the following if used in connection with a community event—

- (a) a scaffold, hoarding or temporary construction site fence,
- (b) a tent, marquee or booth,
- (c) a stage or platform.

(2) The community event must take place during the following times—

- (a) 7am–11pm on Monday, Tuesday, Wednesday or Thursday,
- (b) 7am–12am on Friday or Saturday,
- (c) 8am–8pm on Sunday.

(3) The construction or installation must not occur more than 7 days before the

commencement of the community event.

- (4) The structures specified in subsection (1) must not remain on the land for more than 7 days after the end of the community event.
- (5) If the development involves the erection of a temporary structure, the structure must be—
  - (a) erected on a surface that is sufficiently firm and level to sustain the structure while in use, and
  - (b) able to resist loads determined in accordance with the following standards—
    - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
    - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
    - (iii) AS/NZS 1170.2:2021, *Structural design actions—Wind actions*.
- (6) The development must be covered by a policy of insurance taken out by the person carrying out the development that adequately covers the public liability of the person in relation to the carrying out of the development for an amount approved by the owner of the land on which the development is carried out.

## **29 Specific standards for structures for community events**

- (1) Development specified in section 28(1)(a) must enclose the work area.
- (2) Development specified in section 28(1)(a) involving a temporary construction site fence adjoining or on a public place must be designed and installed in accordance with the following—
  - (a) AS 4687.1:2022, *Temporary fencing and hoardings—General requirements*,
  - (b) AS 4687.2:2022, *Temporary fencing and hoardings—Temporary fencing and temporary pedestrian barriers*,
  - (c) AS 4687.3:2022, *Temporary fencing and hoardings—Temporary hoardings*.
- (3) The standards for a tent, marquee or booth referred to in section 28(1)(b) are the following—
  - (a) the tent, marquee or booth must not have a floor area of more than 300m<sup>2</sup>,
  - (b) all tents, marquees and booths used at the same time on 1 site must not have a total floor area of more than 1,000m<sup>2</sup>,
  - (c) the tent, marquee or booth must be located at least 3m from tourist and visitor accommodation,

- (d) the tent, marquee or booth must be constructed or installed so there is an unobstructed pedestrian circulation area at least 1.5m wide around the perimeter of the tent, marquee or booth, unless it is attached to or abuts a building with no separation,
  - (e) the tent, marquee or booth must be constructed or installed at ground level,
  - (f) the tent or marquee must have the following number of exits—
    - (i) for a tent or marquee with a floor area of not more than 25m<sup>2</sup>—1 exit,
    - (ii) for a tent or marquee with a floor area of not more than 100m<sup>2</sup>—2 exits,
    - (iii) otherwise—4 exits,
  - (g) the exits required under paragraph (f) must be arranged so there is an available exit from all parts of the tent or marquee to open space or a road,
  - (h) if the tent or marquee has internal seating, stalls, tables or other obstructions—there must be a clear path of travel to an exit that is no more than 40m in length,
  - (i) each exit for the tent or marquee must be at least—
    - (i) if the floor area of the tent or marquee is less than 150m<sup>2</sup>—850mm wide, or
    - (ii) otherwise—1m wide,
  - (j) the wall height of the tent or marquee must not be more than 5m,
  - (k) the height of the tent or marquee, measured from the surface on which the tent or marquee is constructed or installed to the highest point of the tent or marquee, must not be more than 6m.
- (4) The standards for a stage or platform referred to in section 28(1)(c) are the following—
- (a) the stage or platform must not have a floor area of more than 300m<sup>2</sup>,
  - (b) all stages or platforms used at the same time on 1 site must not have a floor area of more than 400m<sup>2</sup>,
  - (c) the stage or platform must be located at least 3m from tourist and visitor accommodation,
  - (d) the stage or platform must be constructed or installed at ground level,
  - (e) the height of the stage or platform, measured from the surface on which the stage or platform is constructed or installed to the floor of the stage or platform, must not be more than 2m,



- (f) the height of a roof structure or cover over the stage or platform, measured from the surface on which the stage or platform is constructed or installed, must not be more than 9m.

## **Schedule 3 Complying development—Chapter 4**

section 4.11

### **Part 1 Complying development**

#### **1 Internal building alterations**

- (1) An internal alteration to a building, including to replace or renovate the following—
  - (a) a doorway, wall, ceiling or floor lining,
  - (b) a deteriorated frame member, including stairs and stairwells,
  - (c) a kitchen or bathroom.
- (2) The development must not result in a change of building classification under the *Building Code of Australia*.
- (3) If the development involves a kitchen or food and drink premises, the development must be carried out in accordance with AS 4674—2004, *Design, construction and fit-out of food premises*.
- (4) Development involving a building used for the purposes of staff accommodation or tourist and visitor accommodation must not alter the size or number of bedrooms in the building.

#### **2 External building alterations**

- (1) An external alteration to a building, including the following—
  - (a) plastering, cement rendering, cladding, attaching fittings or decorative work,
  - (b) construction of a non-structural wall,
  - (c) installation of roof cladding,
  - (d) installation of a security screen or grille on a door or window,
  - (e) installation of a security door,
  - (f) construction of a balustrade.
- (2) The development must only use materials and finishes of a similar colour palette and substance to the existing building.
- (3) The development must not—

- (a) be carried out on or in a heritage item, or
  - (b) alter the building's emergency exits, or
  - (c) increase the height or footprint of the building, or
  - (d) affect the existing fire resistance level of a part of the building, or
  - (e) result in a change of building classification under the *Building Code of Australia*, or
  - (f) involve the enclosure of a carport.
- (4) The development must not be carried out on a building used for a special fire protection purpose, within the meaning of the *Rural Fires Act 1997*, section 100B.
- (5) If the building is on bush fire prone land, the development must not result in the building—
- (a) not being adequately sealed or protected against the entry of embers, or
  - (b) comprising materials that do not comply with the *Building Code of Australia*, or
  - (c) not complying with AS 3959:2018, *Construction of buildings in bushfire-prone areas*, or
  - (d) not complying with the requirements of *Planning for Bush Fire Protection*.

### **3 Change of use of building**

- (1) The change of use of a building if the change of use does not require a bush fire safety authority under the *Rural Fires Act 1997*, section 100B.
- (2) For this section, the reference in the *Rural Fires Act 1997*, section 100B to residential or rural residential purposes is to be read as a reference to tourist and visitor accommodation and staff accommodation.

### **4 Replacement of lifting facilities and snow-making infrastructure**

- (1) The replacement of an entire lifting facility or snow-making infrastructure.
- (2) The development must be carried out in accordance with—
- (a) the requirements or recommendations of the manufacturer of the lifting facility or snow-making infrastructure, and
  - (b) AS 4722:2018, *Passenger ropeways and passenger conveyors*, to the extent it applies to the lifting facility.
- (3) The development must not—
- (a) involve a new access track or management trail, or

(b) result in a change to the extent or location of earthworks, other than the depth of earthworks.

(4) Equivalent or higher quality materials must be used.

## **5 Fire alarms**

Development referred to in Chapter 4, section 4.20(2) if it consists only of—

(a) internal alterations to a building, or

(b) internal alterations to a building and the mounting of an antenna, including a support structure, on an external wall or roof of a building in a way that does not occupy more than 450mm × 100mm × 100mm.

## **Part 2 Complying development certificate conditions**

### **6 Hours for construction work**

(1) Construction work may be carried out—

(a) between 7am and 6pm on Monday to Friday, and

(b) between 7am and 5pm on Saturday.

(2) Construction work must not be carried out on Sunday or a public holiday.

(3) Construction work may be carried out outside the times specified in subsections (1) and (2) if the construction work generates noise no louder than—

(a) 5dB(A) above the rating background level at any adjoining residence, in accordance with the *Interim Construction Noise Guideline*, published by the Department of Environment and Climate Change NSW in July 2009, or

(b) the noise management levels specified in Table 3 of the guideline at other sensitive receivers.

(4) This section does not apply to the delivery of materials if prior approval has been obtained from the NSW Police Force or another relevant public authority.

(5) This section does not apply to construction work carried out—

(a) in an emergency, or

(b) to avoid loss of life or property, or

(c) to prevent environmental harm.

### **7 Tree protection measures**

(1) A tree guard must be installed around the trunk of each relevant tree.

- (2) The tree guard must be made of hardwood timber panels that are—
  - (a) at least 2m long, 75mm wide and 25mm thick, and
  - (b) spaced no more than 80mm apart, and
  - (c) secured, but not permanently fixed or nailed, to the tree.
- (3) A fence or barrier must be erected around the tree protection zone of each relevant tree, in accordance with section 4 of the Standard.
- (4) The measures specified in this section must—
  - (a) be in place before work commences, and
  - (b) remain in place and be maintained in good condition during the construction period.

- (5) In this section—

**relevant tree** means a tree that is within 6m of development specified in this Schedule, section 2 or 4.

**the Standard** means AS 4970—2009, *Protection of trees on development sites*.

**tree protection zone** has the same meaning as in section 3.2 of the Standard.

## 8 Hours of operation

- (1) If there is an existing condition on a development consent applying to hours of operation, the development must not be operated outside the hours specified in the condition.
- (2) If there is no existing condition on a development consent applying to hours of operation, the development must not be operated outside—
  - (a) for development involving commercial premises—
    - (i) 7am to 10pm on Monday to Saturday, and
    - (ii) 7am to 8pm on Sunday or a public holiday, or
  - (b) otherwise—
    - (i) 7am to 7pm on Monday to Saturday, and
    - (ii) 9am to 6pm on Sunday or a public holiday

## 9 Fire alarms

- (1) Building work for complying development under this Schedule, section 5 may be carried out—

- (a) between 7am and 6pm on Monday to Friday, and
  - (b) between 7am and 5pm on Saturday.
- (2) Building work for complying development under this Schedule, section 5 must not be carried out on Sunday or a public holiday.

## Schedule 4 Heritage items—Chapter 4

Schedule 4A, definition of “heritage item”

Item	Property description
<b>Charlotte Pass Alpine Resort</b>	
The Chalet	Lot 116, DP 1242013
<b>Perisher Range Alpine Resort</b>	
Alexandra	Lot 199, DP 44462
Caloola	Lot 34, DP 756697
Dulmison	Lot 262, DP 727585
Edelweiss	Lot 86, DP 756697
Illoura	Lot 243, DP 704189
Kosciuszko Snow Revellers’ Club (KSRC)	Lot 269, DP 825208
Ku-ring-gai	Lot 600, DP 1158765
Lodge 21	Lot 21, DP 756697
Maranatha	Lot 238, DP 721847
Munjarra	Lot 62, DP 756697
Numbananga	Lot 33, DP 756697
Rock Creek	Lot 46, DP 756697
Rugby Union	Lot 1, DP 1085269
Telemark	Lot 87, DP 756697
Tiobunga (YMCA)	Lot 147, DP 756697
<b>Sponars Chalet Alpine Accommodation</b>	
Sponars Chalet	Lot 1, DP 1183733
<b>Thredbo Alpine Resort</b>	
Athol	Lot 756, DP 1119757

Crackenback Ski Club	Lot 791, DP 1119757
De Dacha	Lot 837, DP 1119757
Kasees	Lot 725, DP 1119757
Seidler Lodge (previously Lend Lease Lodge)	Lot 784, DP 1119757
Moonbah	Lot 787, DP 1119757
Obergurgl	Lot 750, DP 1119757
Ramshead	Lot 755, DP 1119757
Sastrugi	Lot 786, DP 1119757
Thredbo Alpine Club	Lot 723, DP 1119757
Thredbo Alpine Hotel	Lot 861, DP 1119757
Valley Terminal	Lot 862, DP 1119757
Wombiana	Lot 752, DP 1119757
Timber Pedestrian Bridge	Land identified as “Timber Pedestrian Bridge” on the <a href="#">State Environmental Planning Policy (Precincts—Regional) 2021 Thredbo Alpine Resort Map</a>
Site of 1997 Landslide	Lot 705 and 894, DP 1119757

## Schedule 4A Dictionary—Chapter 4

section 4.3

**Aboriginal heritage item** means a heritage item identified on the Aboriginal Heritage Information System held by the Department.

**Aboriginal place** has the same meaning as in the [National Parks and Wildlife Act 1974](#).

**Alpine Region** means the Alpine Region identified on the [State Environmental Planning Policy \(Precincts—Regional\) 2021 Kosciuszko Alpine Region Land Application Map](#).

**Alpine Subregion** means an Alpine Subregion specified in section 4.2(2).

**commercial premises** means commercial premises within the meaning of the Standard Instrument but does not include retail premises, other than food and drink premises, kiosks and shops that operate primarily to serve the daily needs of tourists and visitors and staff employed to work in the Alpine Region.

**flood planning area** has the same meaning as in the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 4.

**infrastructure facility** means a facility provided as a utility undertaking, whether or not as a public

utility undertaking, including the following—

- (a) a water supply system,
- (b) a road, other than a road provided by or on behalf of Transport for NSW,
- (c) a sewerage system,
- (d) a waste or resource transfer station.

**Kosciuszko National Park Plan of Management** means the *Kosciuszko National Park Plan of Management* adopted under the *National Parks and Wildlife Act 1974* and as in force on the commencement of *State Environmental Planning Policy (Precincts—Regional) Amendment (Kosciuszko Alpine Region) 2022*.

**lease or licence area** means an area of land in the Alpine Region that is subject to a lease or licence granted under the *National Parks and Wildlife Act 1974* by the Minister administering that Act.

**lifting facility** means a motorised system used for transport, and includes the following—

- (a) a ski lift that uses an overhead rope or cable, including a chair lift, gondola, T-bar or J-bar,
- (b) a ski carpet or conveyor belt.

**management trail** means a trail used by or on behalf of the following persons for operational purposes, including the management of ski slopes, or for fire protection or emergency purposes—

- (a) a head lessee or licensee of land in an Alpine Subregion under the *National Parks and Wildlife Act 1974*,
- (b) a public authority.

**monitoring station** means a facility operated for the principal purpose of monitoring weather, noise, air, water, groundwater or environmental impacts.

**off-peak time** means any time that is not peak time.

**peak time** means—

- (a) between 8am and 10pm on Saturday, Sunday or a public holiday, or
- (b) between 7am and 10pm on other days.

**Planning for Bush Fire Protection** means *Planning for Bush Fire Protection*, ISBN 978 0 646 99126 9, prepared by the NSW Rural Fire Service and the Department of Planning, Industry and Environment in November 2019.

**recreation infrastructure** means infrastructure provided for the purposes of active or passive recreation for tourists and visitors, including walking trails, mountain bike trails, directional signage, cross-country ski trails and oversnow routes, but does not include ski slopes.

**shop** means premises that—

- (a) are used for displaying, offering for sale or selling by retail goods, merchandise or materials, and

- (b) operate primarily to serve the daily needs of tourists and visitors and staff employed to work in the Alpine Region.

**ski slope** means an area of land that has been developed primarily to facilitate ski activities, whether or not lifting facilities are required to access the area.

**ski slope hut** means a race hut, lift hut, ski patrollers' hut or similar hut that—

- (a) is erected on a ski slope, and  
(b) must be fixed to the ground.

**Skitube** means the passenger train connecting Blue Cow Terminal, Bullocks Flat Terminal and Perisher Range Alpine Resort.

**snow-making infrastructure** means infrastructure primarily used to make snow, including the following—

- (a) air compressors,  
(b) air and water pipes,  
(c) cooling towers and refrigeration,  
(d) equipment used to extract or pump water,  
(e) fixed and mobile snow guns, including fan guns and lances,  
(f) pump houses and sheds,  
(g) service pits.

**staff accommodation** means a building used for the accommodation of staff employed to work in an Alpine Subregion.

**Standard Instrument** means the standard instrument set out in the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

## Schedule 5 Additional permitted uses—Chapter 5

(Section 5.15)

### 1 Use of certain land at “Breakwater”, Gosford

- (1) This section applies to land identified as “Breakwater” on the [Additional Permitted Uses Map](#) that is in Zone W2 Recreational Waterways.
- (2) Development for the purposes of business premises, charter and tourism boating facilities, centre-based child care facilities, hotel or motel accommodation, jetties, office premises, roads, shops and wharf or boating facilities is permitted with development consent.



## **2 Use of certain land at Leagues Club Field, Gosford**

- (1) This section applies to land at Leagues Club Field, being Lots 7035 and 7036, DP 1020068 and Lot 5, Section 81, DP 758466.
- (2) Development for the purposes of recreation facilities (major) and recreation facilities (outdoor) is permitted with development consent.

## **3 Use of certain land in Zone B4**

- (1) This section applies to land in Zone B4 Mixed Use.
- (2) Development for the purposes of car parks is permitted with development consent.

## **Schedule 6 Exempt development—Chapter 5**

(Section 5.19)

### **Note 1.**

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

### **Note 2.**

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

### **Recreation facilities (indoor, major or outdoor)**

Must be consistent with any applicable plan of management prepared under the *Local Government Act 1993* for the land.

### **Outdoor lighting**

- (1) Must not be for tennis courts or a sports field.
- (2) Must be located or shielded so as not to cause a nuisance to adjoining premises.

### **Solid fuel heaters**

- (1) Must comply with AS/NZS 4013:1999, *Domestic solid fuel burning appliances—Method for determination of flue gas emission*.
- (2) Rain excluders must not impede the vertical flow of exhaust gases.
- (3) Must be installed in accordance with AS/NZS 2918:2001, *Domestic solid fuel burning appliances—Installation*.
- (4) Chimney or flue must be a minimum of 300mm above any structure within a 3.6m horizontal radius.

- (5) Top of chimney or flue must be at least 1m higher than any other building within a 15m radius.
- (6) Maximum height of chimney or flue—6m above roof.

**Temporary events or activities on land owned or managed by Council (including erection of associated temporary structures)**

- (1) Must be located on land owned by the Council or for which the Council has care, control or management (including roads and Crown land).
- (2) Must be consistent with any applicable plan of management prepared under the *Local Government Act 1993* for the land.
- (3) Must be in accordance with a licence or hire agreement issued by the Council.
- (4) Must have obtained all required approvals.

**Note.**

Other approvals may be required, and must be obtained, under other Acts, including the *Local Government Act 1993*, the *Roads Act 1993* and the *Crown Land Management Act 2016*.

## Schedule 7 Complying development—Chapter 5

(Section 5.20)

**Note.**

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

### Part 1 Types of development

(When Chapter 5 was made this Part was blank)

### Part 2 Complying development certificate conditions

**Note.**

Complying development must comply with the requirements of the Act, the regulations under the Act and Chapter 5.

#### General conditions

Any development specified in Part 1 is subject to the same conditions set out in Schedule 6 to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

## Schedule 8 Classification and reclassification of public land—Chapter 5

(Section 5.30)

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

Column 1	Column 2
Locality	Description
Gosford	Lot B, DP 321076, 73 Mann Street
Gosford	Lot 2, DP 543135, 75 Mann Street

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged
Nil		

## Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Nil	

## Schedule 9 Environmental heritage—Chapter 5

(Section 5.36)

### Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
East Gosford	Quarry	47 Henry Parry Drive and 54 White Street	Lot 13, DP 778384; Lot 172, DP 616593	Local	323
Gosford	Avenue and feature trees—Grahame Park	Alfred Higgs Place and Dane Drive	Road reserve; Part Lot 1, DP 1011876	Local	25
Gosford	House	1 Bent Street	Lot 2, DP 311833	Local	322
Gosford	Stone street wall	2 Broadview Avenue	SP 16709	Local	26
Gosford	Large-faced clock with wooden frame	Burns Crescent (Gosford Railway Station)	Part Lot 100, DP 1006006	Local	49

Gosford	Burns Place Park, feature eucalypt and stands of mature trees	Between Burns Crescent and Mann Street		Local	27
Gosford	Union Hotel	108 Donnison Street	Lot 5, DP 1015908	Local	28
Gosford	William Street well	124-134 Donnison Street	Lot D, DP 69497	Local	324
Gosford	Gosford Hotel	102 Erina Street	Lot 1, DP 76776	Local	29
Gosford	Former Gosford Public School and residence, now TAFE Building E	121 Henry Parry Drive	Part of Lot 1, DP 861564	Local	30
Gosford	Gosford City Council Memorial Park, including avenue and feature trees	Mann Street and Vaughan Avenue	Lot 7038, DP 1020204; Lot 7021, DP 1020205	Local	31
Gosford	Former School of Arts	Corner of Mann Street and Georgiana Terrace	Part of Lot 1, DP 1210298	Local	36
Gosford	Stone street and driveway wall	1 Mann Street	SP 6683	Local	32
Gosford	Old Christ Church Anglican Church	3 Mann Street	Lot 13, Section 9, DP 758466; Lot 14, DP 1115314	Local	33
Gosford	Anglican rectory	5 Mann Street	Lot 12, Section 9, DP 758466	Local	34
Gosford	Part of Gosford South Post Office	23 Mann Street	Lot A, DP 88695	Local	35
Gosford	Creighton's Funeral Parlour	37 Mann Street	Lot A, DP 355117	Local	37
Gosford	Conservatorium of Music (former courthouse and police station)	45 Mann Street	Lot 453, DP 727721	Local	38
Gosford	Central Coast Council administration building (Gosford office)	49 Mann Street	Lot 1, DP 564021; Lot 1, DP 251476	Local	39
Gosford	Former Brisbane Water County Council building	50 Mann Street	Lot 1, DP 433839	Local	40

Gosford	Feature tree—fig	Boundary of 81, 83 and 85 Mann Street and 123B Donnison Street	Lots 11, 14 and 15, DP 746819; Lot 3, DP 1023985	Local	41
Gosford	Former Orion Cafe	98 Mann Street	Lot A, DP 162813	Local	318
Gosford	Shopfront	131-133 Mann Street	Lot 2, DP 516486; Lot 1, DP 568811	Local	319
Gosford	Building facade, First National Real Estate	150 Mann Street	Lot 1, DP 134233	Local	42
Gosford	Steps of former private hospital	297 Mann Street	Lot 7, DP 18726	Local	320
Gosford	Mitre 10 store	299-309 Mann Street	Lots 1 and 2, Section 1, DP 1591; Lot 1, DP 911164; Lot 1, DP 911163	Local	43
Gosford	War memorial site, Gosford Olympic Swimming Pool	Masons Parade	Lot 7018, DP 1116947	Local	44
Gosford	Railway bridge and viaduct	Racecourse Road and Etna Street		Local	45
Gosford	Part of Gosford High School	30 Racecourse Road	Lot 299, DP 755227	Local	321
Gosford	Railway turntable	Railway land off Showground Road	Part Lot 100, DP 1006006	Local	47
Gosford	Signal box, water column and tank	Railway land off Showground Road	Part Lot 100, DP 1006006	Local	48
Gosford	Railway bridge and pylons	Between Fagans Bay and Brisbane Water	Railway land; part Lot 1, DP 997118	Local	50
North Gosford	Three Art Deco shopfronts	344 Mann Street	Lot 5, DP 8375	Local	325
Point Frederick	House, "Corra-Lynn"	3 Lynn Avenue	Lot 9, DP 38586	Local	144
Point Frederick	House, "Nettaville"	2 York Street	Lot 52, DP 715094	Local	145
Point Frederick	Block of units	4 York Street	Lot 5, DP 218157	Local	326
Point Frederick	House and fence	8 York Street	Lot 81, DP 840814	Local	327

### Part 3 Archaeological sites

Suburb	Item name	Address	Property description	Significance	Item no
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Gosford	Site of original Gosford Wharf	Dane Drive	Part Lot 22, DP 1040230	Local	A8
Gosford	Footings of former sergeant's residence/police station	38 Mann Street	Lot 1, DP 1210298	Local	A25
Gosford	Footings of former police stables	38 Mann Street	Lot 1, DP 1210298	Local	A26
Gosford	Rotary Club, fountain, garden and original site of Gosford Wharf	Vaughan Avenue	Part Lot 7023, DP 1076182	Local	A9

## Schedule 10 Dictionary for Chapter 5

(Section 5.3)

### Note.

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of Chapter 5.

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

**Aboriginal place of heritage significance** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the [Heritage Map](#), that is—

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It 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) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

### Note.

The term may include (but is not limited to) places that are declared under section 84 of the [National Parks and Wildlife Act 1974](#) to be Aboriginal places for the purposes of that Act.

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

**Acid Sulfate Soils Manual** means the manual by that name published by the Acid Sulfate Soils

Management Advisory Committee and made publicly available.

**Acid Sulfate Soils Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Acid Sulfate Soils Map](#).

**Active Street Frontages Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Active Street Frontages Map 2018](#).

**Additional Permitted Uses Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Additional Permitted Uses Map](#).

**Additional Provisions Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Additional Provisions Map](#).

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

**Note.**

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

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

**Note.**

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

Advertising structures are a type of **signage**—see the definition of that term in this Dictionary.

**affordable housing** has the same meaning as in the Act.

**Note.**

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

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

**Note.**

Agricultural produce industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**agriculture** means any of the following—

- (a) aquaculture,
- (b) extensive agriculture,
- (c) intensive livestock agriculture,
- (d) intensive plant agriculture.

**Note.**

Part 6 of the [Plantations and Reafforestation Act 1999](#) provides that exempt farm forestry within the meaning of that Act is not subject to the [Environmental Planning and Assessment Act 1979](#).

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

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

**Note.**

Airports are a type of **air transport facility**—see the definition of that term in this Dictionary.

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

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

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

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

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

**Note.**

Aquaculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**archaeological site** means a place that contains one or more relics.

**artisan food and drink industry** means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

**Note.**

See section 5.32 for controls in industrial or rural zones relating to the retail floor area of an artisan food and drink industry.

Artisan food and drink industries are a type of **light industry**—see the definition of that term in this Dictionary.

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

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.



**Note.**

Attached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**backpackers' accommodation** means a building or place that—

- (a) provides temporary or short-term accommodation on a commercial basis, and
- (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (c) provides accommodation on a bed or dormitory-style basis (rather than by room).

**Note.**

Backpackers' accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

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

**bed and breakfast accommodation** means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where—

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

**Note.**

See section 5.32 for controls relating to the number of bedrooms for bed and breakfast accommodation.

Bed and breakfast accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**bee keeping** means a building or place used for the keeping and breeding of bees for commercial purposes.

**Note.**

Bee keeping is a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**biodiversity** or **biological diversity** means the variety of living animal and plant life from all sources, and includes diversity within and between species and diversity of ecosystems.

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

**Note.**

Biosolids treatment facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

**boarding house** means a building that—

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

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

**Note.**

Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

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

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

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

**Note.**

This definition is relevant to the definitions of **home occupation (sex services)** and **sex services premises** in this Dictionary.

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

**Note.**

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

**building height (or height of building)** means—

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

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

**Note.**

Building identification signs are a type of **signage**—see the definition of that term in this Dictionary.

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

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

whichever distance is the shortest.

**bush fire hazard reduction work** has the same meaning as in the [Rural Fires Act 1997](#).

**Note.**

The term is defined as follows—

**bush fire hazard reduction work** means—

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

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

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

**Note.**

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

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

**business identification sign** means a sign—

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

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

**Note.**

Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

**business premises** means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of

services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**Note.**

Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

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

(a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to—

(i) dwellings that are permitted on rural land, and

(ii) dwellings that are used for caretaker or staff purposes, or

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

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

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

**catchment action plan** has the same meaning as in the [Catchment Management Authorities Act 2003](#).

**Note.**

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

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

**Note.**

Cellar door premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**cemetery** means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.

**centre-based child care facility** means—

- (a) a building or place used for the education and care of children that provides any one or more of the following—
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

**Note.**

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children’s parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

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

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

**Note.**

The term is defined as follows—

**classified road** means any of the following—

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

(See [Roads Act 1993](#) for meanings of these terms.)

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

**clearing vegetation** has the same meaning as in [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#).

**coastal hazard** has the same meaning as in the [Coastal Management Act 2016](#).

**coastal lake** means a body of water identified in Schedule 1 to [State Environmental Planning Policy \(Coastal Management\) 2018](#).

**coastal protection works** has the same meaning as in the [Coastal Management Act 2016](#).

**coastal waters of the State**—see section 58 of the [Interpretation Act 1987](#).

**coastal zone** has the same meaning as in the [Coastal Management Act 2016](#).

**commercial premises** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

**community facility** means a building or place—

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

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

**community land** has the same meaning as in the [Local Government Act 1993](#).

**correctional centre** means—

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

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

**Council** means the Central Coast Council.

**crematorium** means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

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

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

**Note.**

Dairies (pasture-based) are a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**dairy (restricted)** means a dairy that is conducted on a commercial basis where restriction facilities (in addition to milking sheds and holding yards) are present and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief). It may comprise the whole or part of a restriction facility.

**Note.**

Dairies (restricted) are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

**demolish**, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

**drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

**Note.**

Dual occupancies are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

**Note.**

Dual occupancies (attached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

**dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

**Note.**

Dual occupancies (detached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

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

**dwelling house** means a building containing only one dwelling.

**Note.**

Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**early education and care facility** means a building or place used for the education and care of children, and includes any of the following—

- (a) a centre-based child care facility,
- (b) home-based child care,
- (c) school-based child care.

**earthworks** means excavation or filling.

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

**eco-tourist facility** means a building or place that—

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

**Note.**

See section 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

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

- (a) a school, or



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

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

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

**emergency services organisation** means any of the following—

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

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

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

**environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

**environmentally sensitive area for exempt and complying development** means an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**estimated development cost** has the same meaning as in the *Environmental Planning and Assessment Regulation 2021*.

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

**Note.**

The term is defined as follows—

**estuary** means—

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
  - (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
  - (c) anything declared by the regulations (under the [Water Management Act 2000](#)) to be an estuary,
- but does not include anything declared by the regulations (under the [Water Management Act 2000](#)) not to be an estuary.

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

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

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

**extensive agriculture** means any of the following—

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock for commercial purposes,
- (c) bee keeping,
- (d) a dairy (pasture-based).

**Note.**

Extensive agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**Note.**

Extractive industries are not a type of **industry**—see the definition of that term in this Dictionary.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

**farm building** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

**farm stay accommodation** means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

**Note.**

See section 5.32 for controls relating to the number of bedrooms.

Farm stay accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**feedlot** means a confined or restricted area that is operated on a commercial basis to rear and fatten cattle, sheep or other animals, fed (wholly or substantially) on prepared and manufactured feed, for the purpose of meat production or fibre products, but does not include a poultry farm, dairy or piggery.

**Note.**

Feedlots are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

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

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

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

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

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

**Note.**

The term is defined as follows—

**Definition of “fish”**

(1)

**Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).

(2)

**Fish** includes—

- (a) oysters and other aquatic molluscs, and
- (b) crustaceans, and
- (c) echinoderms, and
- (d) beachworms and other aquatic polychaetes.

(3)

**Fish** also includes any part of a fish.

(4)

However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the [Fisheries Management Act 1994](#).

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

**Flood Risk Management Manual** means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

**floor space ratio**—see section 5.27.

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Floor Space Ratio Map](#).

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Note.**

Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**forestry** has the same meaning as **forestry operations** has for the purposes of Part 5A of the [Forestry Act 2012](#).

**Note.**

The term is defined as follows—

**forestry operations** means—

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) the harvesting of forest products, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning and other silvicultural activities such as bee-keeping, grazing and bush fire hazard reduction, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

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

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

**funeral home** means premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons.

**Note.**

Funeral homes are a type of **business premises**—see the definition of that term in this Dictionary.

**garden centre** means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following—

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

**Note.**

Garden centres are a type of **retail premises**—see the definition of that term in this Dictionary.

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

**Note.**

General industries are a type of **industry**—see the definition of that term in this Dictionary.

**Gosford City Centre** means the land identified on the [Land Application Map](#).

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

- (a) the area of a mezzanine, and

- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,  
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

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

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

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

**group home** means a permanent group home or a transitional group home.

**Note.**

Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**group home (permanent) or permanent group home** means a dwelling—

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#) applies.

**Note.**

Permanent group homes are a type of **group home**—see the definition of that term in this Dictionary.

**group home (transitional) or transitional group home** means a dwelling—

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#) applies.

**Note.**

Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

**hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

**Note.**

Hardware and building supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**hazardous industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality—

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

**Note.**

Hazardous industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

**hazardous storage establishment** means a building or place that is used for the storage of goods, materials or products and that would, 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 building or place from existing or likely future development on other land in the locality), pose a significant risk in the locality—

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

**Note.**

Hazardous storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

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

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

health care.

**health consulting rooms** means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

**Note.**

Health consulting rooms are a type of **health services facility**—see the definition of that term in this Dictionary.

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

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

**heavy industrial storage establishment** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and that requires separation from other development because of the nature of the processes involved, or the goods, materials, plant or machinery stored, and includes any of the following—

- (a) a hazardous storage establishment,
- (b) a liquid fuel depot,
- (c) an offensive storage establishment.

**heavy industry** means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes—

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

**Note.**

Heavy industries are a type of **industry**—see the definition of that term in this Dictionary.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Height of Buildings Map](#).

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

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



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

**Note.**

Heliports are a type of **air transport facility**—see the definition of that term in this Dictionary.

**heritage conservation area** means an area of land of heritage significance—

- (a) shown on the [Heritage Map](#) as a heritage conservation area, and
  - (b) the location and nature of which is described in Schedule 9,
- and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Public Service agency responsible to the Minister administering the [Heritage Act 1977](#) that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**heritage impact statement** means a document consisting of—

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 9.

**Note.**

An inventory of heritage items is also available at the office of the Council.

**heritage management document** means—

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Heritage Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Heritage Map](#).

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

**high technology industry** means a building or place predominantly used to carry out an industrial

activity that involves any of the following—

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,
- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

**Note.**

High technology industries are a type of **light industry**—see the definition of that term in this Dictionary.

**highway service centre** means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following—

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

**home-based child care** means—

- (a) a family day care residence (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or

**Note.**

A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the [Children \(Education and Care Services\) National Law \(NSW\)](#).

- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the [Children \(Education and Care Services\) Supplementary Provisions Act 2011](#)),

at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.

**home business** means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

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

**Note—**

See section 5.32 for controls relating to the floor area used for a home business.

**home industry** means an industrial activity, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

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

**Note—**

See section 5.32 for controls relating to the floor area used for a home industry.

Home industries are a type of **light industry**—see the definition of that term in this Dictionary.

**home occupation** means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve—

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil,

traffic generation or otherwise, or

(c) the display of goods, whether in a window or otherwise, or

(d) the exhibition of any signage (other than a business identification sign), or

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

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

**home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve—

(a) the employment of persons other than those residents, or

(b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or

(c) the exhibition of any signage, or

(d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

**horticulture** means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

**Note.**

Horticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following—

(a) day surgery, day procedures or health consulting rooms,

(b) accommodation for nurses or other health care workers,

(c) accommodation for persons receiving health care or for their visitors,

(d) shops, kiosks, restaurants or cafes or take away food and drink premises,

(e) patient transport facilities, including helipads, ambulance facilities and car parking,

(f) educational purposes or any other health-related use,

(g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),

- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**Note.**

Hospitals are a type of **health services facility**—see the definition of that term in this Dictionary.

**hostel** means premises that are generally staffed by social workers or support providers and at which—

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

**Note.**

Hostels are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**hotel or motel accommodation** means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) comprises rooms or self-contained suites, and
  - (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,
- but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

**Note.**

Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**industrial activity** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

**industrial retail outlet** means a building or place that—

- (a) is used in conjunction with an industry (other than an artisan food and drink industry) or rural industry, and
- (b) is situated on the land on which the industry or rural industry is located, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,

but does not include a warehouse or distribution centre.

**Note.**

See section 5.32 for controls relating to the retail floor area of an industrial retail outlet.

**industrial training facility** means a building or place used in connection with vocational training in an activity (such as forklift or truck driving, welding or carpentry) that is associated with an industry, rural industry, extractive industry or mining, but does not include an educational establishment, business premises or retail premises.

**industry** means any of the following—

- (a) general industry,
- (b) heavy industry,
- (c) light industry,

but does not include—

- (d) rural industry, or
- (e) extractive industry, or
- (f) mining.

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

**intensive livestock agriculture** means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes any of the following—

- (a) dairies (restricted),
- (b) feedlots,
- (c) piggeries,
- (d) poultry farms,

but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

**Note.**

Intensive livestock agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**intensive plant agriculture** means any of the following—

- (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

**Note.**

Intensive plant agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

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

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

**Note.**

See section 5.32 for controls relating to the gross floor area of a kiosk.

Kiosks are a type of **retail premises**—see the definition of that term in this Dictionary.

**Land Application Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Land Zoning Map](#).

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

**landscaping material supplies** means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

**Note.**

Landscaping material supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**light industry** means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,
- (b) home industry,
- (c) artisan food and drink industry.

**Note.**

Light industries are a type of **industry**—see the definition of that term in this Dictionary.

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

**Note.**

Liquid fuel depots are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**livestock processing industry** means a building or place used for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals and includes abattoirs, knackerries, tanneries, woolscours and rendering plants.

**Note.**

Livestock processing industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**local distribution premises** means a building or place used for the storage or handling of items (whether goods or materials) pending their delivery to people and businesses in the local area, but from which no retail sales are made.

**Note.**

Local distribution premises are a type of **warehouse or distribution centre**—see the definition of that term in this Dictionary.

**Lot Size Map** means the [State Environmental Planning Policy \(Gosford City Centre\) 2018 Lot Size Map](#).

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

**marina** means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities—

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

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

**Note.**

Markets are a type of **retail premises**—see the definition of that term in this Dictionary.

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

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

**Note.**



Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

**mezzanine** means an intermediate floor within a room.

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

**mine subsidence district** means a mine subsidence district proclaimed under section 15 of the [Mine Subsidence Compensation Act 1961](#).

**mining** means mining carried out under the [Mining Act 1992](#) or the recovery of minerals under the [Offshore Minerals Act 1999](#), and includes—

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

**Note.**

Mining is not a type of **industry**—see the definition of that term in this Dictionary.

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

**mooring** means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel, but does not include a mooring pen.

**mooring pen** means an arrangement of freestanding piles or other restraining devices designed or used for the purpose of berthing a vessel.

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

**moveable dwelling** has the same meaning as in the [Local Government Act 1993](#).

**Note.**

The term is defined as follows—

**moveable dwelling** means—

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

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

**Note.**

Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

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

**native vegetation** has the same meaning as in Part 5A of the *Local Land Services Act 2013*.

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

**neighbourhood shop** means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include neighbourhood supermarkets or restricted premises.

**Note.**

See section 5.32 for controls relating to the retail floor area of neighbourhood shops.

Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

**neighbourhood supermarket** means premises the principal purpose of which is the sale of groceries and foodstuffs to provide for the needs of people who live or work in the local area.

**Note.**

See section 5.32 for controls relating to the gross floor area of neighbourhood supermarkets.

Neighbourhood supermarkets are a type of **shop**—see the definition of that term in this Dictionary.

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

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

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

**offensive industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

**Note.**

Offensive industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

**offensive storage establishment** means a building or place that is used for the storage of goods, materials or products and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the building or place from existing or likely future development on other land in the locality), emit a polluting discharge

(including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

**Note.**

Offensive storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

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

**Note.**

Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**open cut mining** means mining carried out on, and by excavating, the earth's surface, but does not include underground mining.

**operational land** has the same meaning as in the [Local Government Act 1993](#).

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

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

**people who are socially disadvantaged** means—

- (a) people who are disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or
- (b) people who require protection because of domestic violence or upheaval.

**people with a disability** means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives.

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

**plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

**Note.**

Plant nurseries are a type of **retail premises**—see the definition of that term in this Dictionary.

**port facilities** means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the [Ports and Maritime Administration Act 1995](#)—

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

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

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

**property vegetation plan** mean a property vegetation plan approved under Part 4 of the [Native Vegetation Act 2003](#) before the repeal of that Act (as continued in force by the regulations under the [Biodiversity Conservation Act 2016](#)).

**pub** means licensed premises under the [Liquor Act 2007](#) the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

**Note.**

Pubs are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

**public authority** has the same meaning as in the Act.

**public land** has the same meaning as in the [Local Government Act 1993](#).

**Note.**

The term is defined as follows—

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

- (a) a public road, or
- (b) land to which the [Crown Land Management Act 2016](#) applies, or
- (c) a common, or
- (d) a regional park under the [National Parks and Wildlife Act 1974](#).

**public reserve** has the same meaning as in the [Local Government Act 1993](#).

**public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following—

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

**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Public Service agency or under the authority of or in pursuance of any Commonwealth or State Act—

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Public Service agency, corporation, firm or authority carrying on the undertaking.

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

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

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

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

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

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

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

ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

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

**registered club** means a club that holds a club licence under the [Liquor Act 2007](#).

**relic** has the same meaning as in the [Heritage Act 1977](#).

**Note.**

The term is defined as follows—

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

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

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

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

**residential care facility** means accommodation for seniors or people with a disability that includes—

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

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

**Note.**

Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**Note.**

Residential flat buildings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**Note.**

Resource recovery facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**respite day care centre** means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

**Note.**

Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**restricted premises** means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

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

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) cellar door premises,

- (b) food and drink premises,
- (c) garden centres,
- (d) hardware and building supplies,
- (e) kiosks,
- (f) landscaping material supplies,
- (g) markets,
- (h) plant nurseries,
- (i) roadside stalls,
- (j) rural supplies,
- (k) shops,
- (l) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note.**

Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**road** means a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.

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

**Note.**

See section 5.32 for controls relating to the gross floor area of roadside stalls.

Roadside stalls are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural industry** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following—

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),
- (d) sawmill or log processing works,



(e) stock and sale yards,

(f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

**Note.**

Rural industries are not a type of **industry**—see the definition of that term in this Dictionary.

**rural supplies** means a building or place used for the display, sale or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**Note.**

Rural supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

**Note.**

Rural workers' dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**Note.**

Sawmill or log processing works are a type of **rural industry**—see the definition of that term in this Dictionary.

**school** means a government school or non-government school within the meaning of the [Education Act 1990](#).

**Note.**

Schools are a type of **educational establishment**—see the definition of that term in this Dictionary.

**school-based child care** means a building or place within a school that is used to provide out-of-school-hours care (including vacation care) for school children only.

**Note.**

Accordingly, a building or place within a school that is used to provide out-of-school-hours care for both school children and pre-school children is not school-based child care.

**secondary dwelling** means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.**

See section 5.32 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**Note.**

Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

**Note.**

Semi-detached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**seniors housing** means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),  
and that is, or is intended to be, used permanently for—
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

**Note.**

Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following—

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**serviced apartment** means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**Note.**

Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

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

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

**Note.**

Sewage reticulation systems are a type of **sewerage system**—see the definition of that term in this Dictionary.

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

**Note.**

Sewage treatment plants are a type of **sewerage system**—see the definition of that term in this Dictionary.

**sewerage system** means any of the following—

- (a) biosolids treatment facility,
- (b) sewage reticulation system,
- (c) sewage treatment plant,
- (d) water recycling facility,
- (e) a building or place that is a combination of any of the things referred to in paragraphs (a)–(d).

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

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

**shop** means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

**Note.**

Shops are a type of **retail premises**—see the definition of that term in this Dictionary.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note.**

Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

- (a) an advertising structure,
- (b) a building identification sign,
- (c) a business identification sign,

but does not include a traffic sign or traffic control facilities.

**site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under Chapter 5.

**Note.**

The effect of this definition is varied by section 5.27 for the purpose of the determination of permitted floor space area for proposed development.

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

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

**small bar** means a small bar within the meaning of the [Liquor Act 2007](#).

**Note.**

Small bars are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**spa pool** has the same meaning as in the [Swimming Pools Act 1992](#).

**Note.**

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

**specialised retail premises** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

**Note.**

Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.

Specialised retail premises are a type of **retail premises**—see the definition of that term in this Dictionary.

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

**Note.**

Stock and sale yards are a type of **rural industry**—see the definition of that term in this Dictionary.

**storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

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

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

**swimming pool** has the same meaning as in the [Swimming Pools Act 1992](#).

**Note.**

The term is defined as follows—

**swimming pool** means an excavation, structure or vessel—

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

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

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

**Note.**

Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**telecommunications facility** means—

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a

telecommunications network, or

(c) any other thing used in or in connection with a telecommunications network.

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

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

**Note.**

The term is defined as follows—

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

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

**timber yard** means a building or place the principal purpose of which is the sale of sawn, dressed or treated timber, wood fibre boards or similar timber products. It may include the cutting of such timber, boards or products to order and the sale of hardware, paint, tools and materials used in conjunction with the use and treatment of timber.

**Note.**

Timber yards are a type of **retail premises**—see the definition of that term in this Dictionary.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,

(e) serviced apartments,

but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

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

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

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

**Note.**

Turf farming is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**underground mining** means—

- (a) mining carried out beneath the earth's surface, including bord and pillar mining, longwall mining, top-level caving, sub-level caving and auger mining, and
- (b) shafts, drill holes, gas and water drainage works, surface rehabilitation works and access pits associated with that mining (whether carried out on or beneath the earth's surface),

but does not include open cut mining.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

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

**Note.**

Vehicle sales or hire premises are a type of **retail premises**—see the definition of that term in this Dictionary.

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

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

**Note.**

Viticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

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

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

**Note.**

Waste disposal facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**waste or resource management facility** means any of the following—

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

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

**Note.**

Waste or resource transfer stations are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

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

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

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

**Note.**

Water recycling facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

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

**Note.**

Water reticulation systems are a type of **water supply system**—see the definition of that term in this Dictionary.

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

**Note.**

Water storage facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

**water supply system** means any of the following—

- (a) a water reticulation system,
- (b) a water storage facility,



(c) a water treatment facility,

(d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

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

**Note.**

Water treatment facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

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

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

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

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

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

**wetland** means—

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgeland, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgeland or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

**wharf or boating facilities** means a wharf or any of the following facilities associated with a wharf or boating that are not port facilities—

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,

- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

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

## **Schedule 11 (Repealed)**