
PLANNING PROPOSAL



Amendment to Albury Local Environmental Plan 2010

B6 Enterprise Corridor Zone – Bulky Goods Premises

Prepared by
AlburyCity Council

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PART 1 – OBJECTIVES OR INTENDED OUTCOMES

AlburyCity Council has resolved to prepare a Planning Proposal as per Section 55 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The proposal seeks an amendment to the *Albury Local Environmental Plan 2010* (ALEP 2010) so as to amend the land use permissibilities of the B6 Enterprise Corridor Zone so as to allow Bulky goods premises to be permitted with consent.

This request follows the recent gazettal of the *Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2011* and *State Environmental Planning Policy Amendment (Standard Instrument) 2011* on 25 February 2011 and 13 July 2011, respectively. The subject amendment seeks to rectify a land use permissibility issue contained in ALEP 2010 as a consequence of the above-mentioned gazettals and does not depart from the intent of ALEP 2010.

PART 2 – EXPLANATION OF PROVISIONS

As per Part 2 - Land Use Table of the LEP, it is proposed to insert Bulky goods premises into Section 3 Permitted with consent under the B6 Enterprise Corridor Zone, as follows:

Zone B6 Enterprise Corridor Zone

3 Permitted with consent

Bulky goods premises

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. The amendment proposes to allow Bulky goods premises in the B6 Enterprise Corridor Zone, which was previously permitted with consent ('via omission') in the original gazetted version of ALEP 2010 dated 13 August 2010. As a consequence, following the recent Standard Instrument changes (mentioned above), Bulky goods premises have become prohibited within the B6 Enterprise Corridor Zone (see Appendices).

The *Standard Instrument (Local Environmental Plans) Amendment Order 2011* (the amending order) was made and published on the 25 February 2011. The amending order amends the original Standard Instrument Order and Standard Instrument from which ALEP 2010 had been previously prepared.

Commencement of the amending order for all Standard Instrument LEPs that were already published on the NSW Legislation website (including ALEP 2010) was deferred until 25 June 2011 to allow Council's to consider proposed amendments and identify further necessary changes (consequential changes) to maintain the 'status quo'. These consequential changes were to be affected by an overriding *State Environmental Planning Policy* (SEPP) where required.

AlburyCity was subsequently consulted regarding the proposed amendments via letter dated 15 April 2011 encouraging Council to assess the proposed amendments and identify any necessary changes it required so as to maintain the 'status quo' of ALEP 2010. Accordingly, AlburyCity reviewed ALEP 2010 and identified a number of concerns and issues that needed to be rectified to maintain the status quo. Whilst some issues have been corrected by the amending SEPP, Council was recently advised that the changes to the classification of Bulky goods premises was a local issue for Albury and therefore not included in the state-wide amending SEPP.

As a result of the amending order and corresponding changes to content and subject matter of ALEP 2010 it has become apparent that Bulky goods premises is now included as a subset of the group term Retail premises. The discretion AlburyCity previously had to consider Bulky goods premises separate to Retail premises is no longer available and, as a consequence, any prohibition of Retail premises in the B6 Enterprise Corridor Zone now also applies by default to Bulky goods premises (in the absence of Bulky goods premises being listed as permitted with consent). This is consistent with *Planning Circular PS 09-011* and *LEP Practice Note PN 11-003* (extract attached - see Appendices).

As a consequence, Bulky goods premises have become prohibited within the B6 Enterprise Corridor Zone as Retail premises are prohibited to prevent such other lower-order land uses as Roadside stalls, Pubs and Markets from being established within this zone. It is noted that previously, Bulky goods premises were permitted with consent 'via omission'. *Planning Circular PS 11-011* provided the following information regarding Bulky goods premises:

...Depending on the nature of the development these land uses may be either Retail premises or Wholesale supplies.

As a consequence, AlburyCity is now seeking to amend the land use permissibilities of the B6 Enterprise Corridor Zone to allow Bulky goods premises to be permitted with consent. The ramifications of not proceeding with this Planning Proposal would be extensive, as any development for the purposes of Bulky goods premises now requires reliance upon the 'Existing Use Rights' provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*. This option is not considered ideal insofar as existing use provisions are not available to vacant land, limits development potential, can be extremely complex to prove and is not reflective of Council's endorsed land use intentions for the subject land. It is also relevant to note that ADCP 2010 contains objectives and provisions encouraging the development of Bulky goods premises in the B6 Enterprise Corridor Zone. Similarly, it will also have significant implications regarding exempt and complying development (particularly with regards to a change of use) for those existing Bulky goods premises, which are now prohibited and therefore unable to undertake this form of minor development.

The B6 Enterprise Corridor Zone (see Locality Map in the Appendices) is the primary business zone within the Albury LGA where Bulky goods premises are actively encouraged. Part 11 of the *Albury Development Control Plan 2010* (ADCP 2010) relates to Development in the Commercial Zones. Objective 2 of Section 11.9.1: *Preferred Land Uses – B6 Enterprise Corridor Zone* (extract attached – see Appendices) states:

To encourage bulky goods and home-maker related businesses to locate within this zone.

Consequently, the amending order and corresponding changes to content and subject matter of ALEP 2010 are at odds with Council's land use intentions.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

AlburyCity is of the view that the prohibition of Bulky goods premises within the B6 Enterprise Corridor Zone, being the pre-eminent commercial zone for this land use type is an erroneous issue that was only readily obvious upon completing the new land use matrix consistent with the amending order.

It is reiterated that previous requests by AlburyCity to have this issue corrected as part of *State Environmental Planning Policy Amendment (Standard Instrument) 2011* were not resolved.

Recent advice received from the NSW DoPI has advised that the issue should be resolved via the submission of a Planning Proposal.

3. Is there a net community benefit?

Upon gazettal of recent Standard Instrument changes to the LEP, Bulky goods premises became prohibited within the B6 Enterprise Corridor Zone. The consequences of this are significant and it is reiterated that the B6 Enterprise Corridor Zone is the pre-eminent commercial zone within Albury where Bulky goods premises are actively encouraged, which must now rely on 'existing use rights' as Bulky goods premises are now prohibited within this zone.

Similarly, it will also have significant implications regarding exempt and complying development (particularly with regards to a change of use) for those existing Bulky goods premises, which are now prohibited and therefore unable to undertake this form of minor development.

It is noted that the abovementioned changes to land use permissibilities have been made inadvertently and prevent the further development of current vacant land within this Zone. The proposal seeks to rectify this issue, and in doing so, provide a greater community benefit by permitting Bulky goods premises within a commercial zone already characterised by Bulky goods and wholesale supplies within Albury (see Appendices).

By amending ALEP 2010, Council seeks to restore the land use permissibilities of the B6 Enterprise Corridor Zone (as previously gazetted), thereby returning ALEP 2010 to the status quo.

Section B - Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The draft *Murray Regional Strategy* (yet to be adopted) is Council's relevant Regional Strategy as set out by the NSW DoPI and includes as one of its main aims to:

- *Reinforce the role of Albury as the Region's major regional centre and the opportunities in taking advantage of its strategic location and emerging economic strengths...*

The Planning Proposal seeks to permit a wider range of commercial land uses within an existing commercial zone (to reinstate previous land use permissibilities) and is therefore consistent with the draft Murray Regional Strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The *Albury 2030 Community Strategic Plan* (Albury 2030 Plan) is Council's local Community Strategic Plan. The Albury 2030 Plan contains a number of outcomes sought under four principal themes. Strategic actions listed under each outcome of this Plan are designed to contribute towards bringing that outcome to life.

Theme No. 1 of the Albury 2030 Plan relates to 'A Growing Economy' and includes as a strategic action under the outcome 'promote Albury for industry and business', the following:

...support and promote business opportunities across all sectors to continue to foster a diverse economic base.

The Planning Proposal is primarily aimed at facilitating an expansion of commercial land use types permitted within a commercial zone (to reinstate previous land use permissibilities). Consequently, the Planning Proposal achieves the abovementioned strategic action as it supports and promotes business opportunities.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with State Environmental Planning Policies (refer to **Table 1**).

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with Section 117 Directions (refer to **Table 2**).

Section C - Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The land is currently zoned B6 Enterprise Corridor and is therefore urban in nature. Accordingly, no threatened species, populations or ecological communities or their habitats will be adversely affected by the proposal.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposal seeks to permit Bulky goods premises within an existing commercial zone (to reinstate previous land use permissibilities), which will therefore not have any adverse environmental effects. Nevertheless any future development which did occur will require a development application, which will require more detailed investigation and assessment.

10. How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have a positive social and economic impact as it seeks to permit Bulky goods premises within a commercial zone (to reinstate previous land use permissibilities).

It is reiterated that the abovementioned change to land use permissibilities seeks to rectify an erroneous issue contained within ALEP 2010 resulting from recent Standard Instrument changes. These changes will severely inhibit development within the B6 Enterprise Corridor Zone of Albury and may have a significant social and economic effect. It should be noted that no submissions were received from the public against Bulky goods premises being permitted within the B6 Enterprise Corridor Zone during public exhibition of ALEP 2010.

By amending ALEP 2010, Council seeks to restore the land use permissibilities of the B6 Enterprise Corridor Zone (as gazetted), thereby returning ALEP 2010 to the status quo.

Section D - State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal is seeking to permit Bulky goods premises within a commercial zone, which is currently already serviced by adequate roads, sewer and water and will therefore not have any impacts on public infrastructure. It is reiterated that Bulky goods premises were previously permitted with consent in the B6 Enterprise Corridor Zone prior to recent Standard Instrument changes. The B6 Enterprise Corridor Zone has already been substantially developed for Bulky goods purposes (e.g. Harvey Norman Home-maker Centre and Peards Garden Complex) and is characteristic of the area.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

AlburyCity seeks to restore to the land use permissibilities of the B6 Enterprise Corridor Zone (as gazetted), thereby returning ALEP 2010 to the status quo. Given that there were no objections from both the general objections from both the general public and public authorities agree Bulky goods premises being permitted in the B6 Enterprise Corridor Zone during exhibition of ALEP 2010.

Consequently, no consultation has been carried out at this stage with any State and Commonwealth Public Authorities outside of the NSW DoPI.

Council is of the strong opinion that this Planning Proposal should be progressed as an expedited amendment to the LEP, with no requirement for State and Commonwealth public authority consultation in recognition of the above factors and due to its minor nature.

PART 4 – COMMUNITY CONSULTATION

The subject Planning Proposal seeks to correct an erroneous issue contained within ALEP 2010 following recent Standard Instrument changes, by permitting Bulky goods premises within the B6 Enterprise Corridor Zone, which applied to the subject zone under previous planning instruments ('via omission'). By amending ALEP 2010 as outlined above, this will maintain the status quo of the document with previous planning instruments and is consistent with the objectives of the B6 Enterprise Corridor as contained within the Albury LEP and *Albury Development Control Plan 2010* (DCP) (see extracts in the Appendices Section).

The ramifications of not proceeding with this Planning Proposal would be extensive, as any development for the purposes of Bulky goods premises now requires reliance upon the 'Existing Use Rights' provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*. This option is not considered ideal insofar as existing use provisions are not available to vacant land, limits development potential, can be extremely complex to prove and is not reflective of Council's endorsed land use intentions for the subject land. It is also relevant to note that ADCP 2010 contains objectives and provisions encouraging the development of Bulky goods premises in the B6 Enterprise Corridor Zone. Similarly, it will also have significant implications regarding exempt and complying development (particularly with regards to a change of use) for those existing Bulky goods premises, which are now prohibited and therefore unable to undertake this form of minor development.

Accordingly, Council is of the strong opinion that this Planning Proposal should be progressed as an expedited amendment to the LEP, with no requirement for public exhibition and no requirement for State and Commonwealth public authority consultation in recognition of the above factors and due to its minor nature.

However, should Council still be required to publicly exhibit the subject amendment, it is proposed that the Planning Proposal be exhibited in accordance with the requirements of section 57 of the *Environmental Planning & Assessment Act 1979* and *A guide to preparing local environmental plans* (July 2009) and be placed on public exhibition for a minimum of 14 days as it relates to a 'low impact' Planning Proposal.

Written notification of the community consultation will be provided in a local newspaper and on Councils' website. In addition affected landowners will be notified in writing. The written notice will contain:

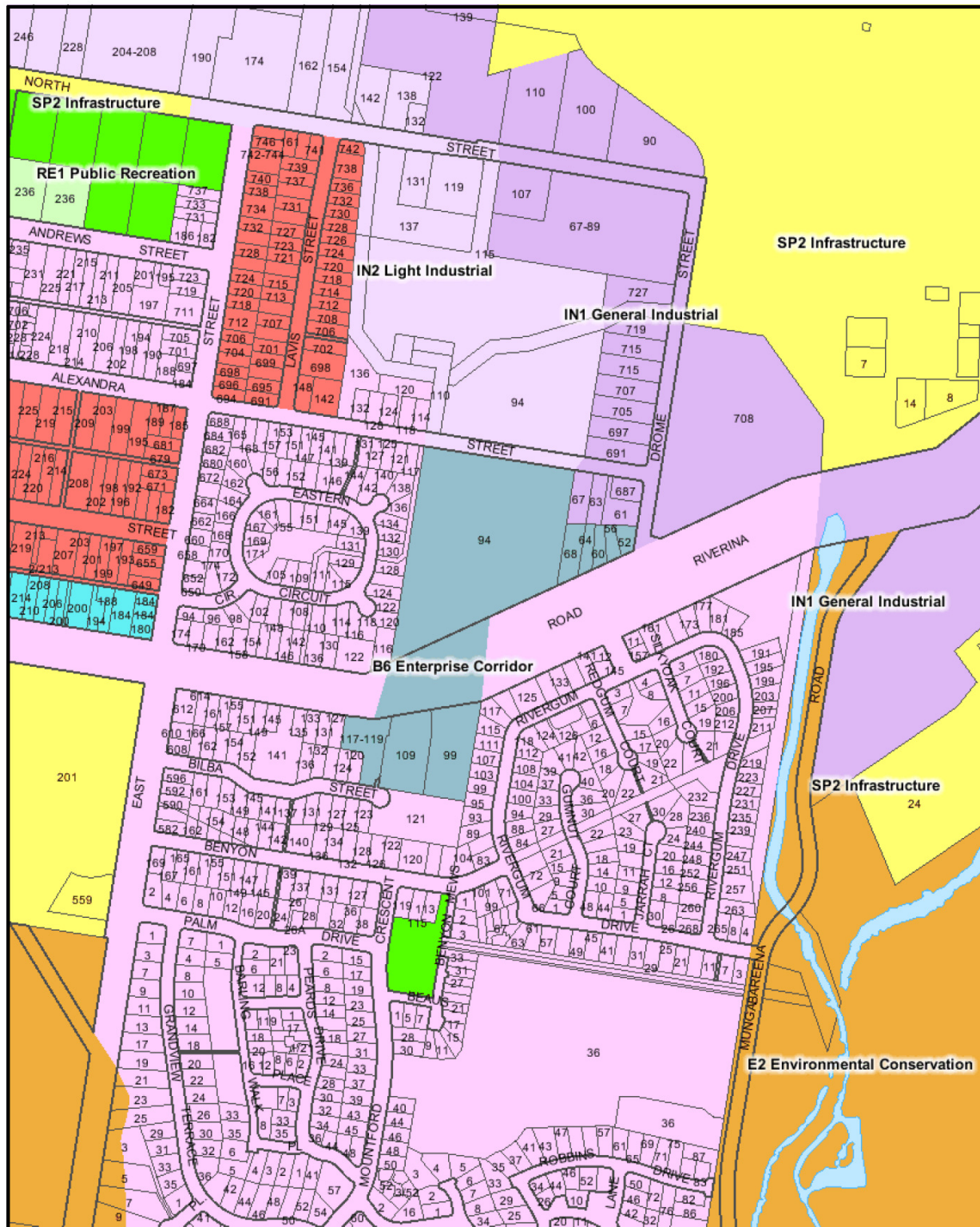
- A brief description of the intended outcomes of the Planning Proposal;
- An indication of the land which is affected by the proposal;
- Information on where and when the Planning Proposal can be inspected;
- The name and address of Council for the receipt of submissions; and
- The closing date for submissions.

During the public exhibition period the following documents will be placed on public exhibition:

- The Planning Proposal;
- The Gateway determination;
- Relevant council reports;
- Any additional studies.

APPENDICES

Figure 1 – Locality Map



DISCLAIMER

Whilst all care has been taken in the preparation of this cadastral base map, AlburyCity accepts no responsibility for the accuracy of any information shown. Users should rely on their own enquiries in order to validate information shown on this map.

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Site Photo's



Harvey Norman Bulky Goods Home-maker Centre zoned B6 Enterprise Corridor



Harvey Norman Bulky Goods Home-maker Centre zoned B6 Enterprise Corridor



Vacant B6 Enterprise Corridor Zone Site adjoining Harvey Norman Home-Maker Centre to the East



Peards Nursery and Garden Centre Complex zoned B6 Enterprise Corridor

Table 1 – Consideration of State Environmental Planning Policies

No.	SEPP Title	Applicable to Planning Proposal	Consistency
1	State Environmental Planning Policy – Development Standards	No, does not apply to land in the Albury LGA since gazettal of ALEP 2010	N/A
4	State Environmental Planning Policy – Development without consent & Miscellaneous Exempt & Complying Development	No, does not apply to land in the Albury LGA since gazettal of ALEP 2010	N/A
6	State Environmental Planning Policy – Number of Storeys in a Building	Not applicable	N/A
14	State Environmental Planning Policy – Coastal Wetlands	No, does not apply to the Albury LGA	N/A
15	State Environmental Planning Policy – Rural Landsharing Communities	No, does not apply to the Albury LGA	N/A
19	State Environmental Planning Policy – Bushland in Urban Areas	Not applicable	N/A
21	State Environmental Planning Policy – Caravan Parks	Not applicable	N/A
22	State Environmental Planning Policy – Shops & Commercial Premises	Yes, because the Planning Proposal relates to a business zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit Bulky goods premises within a commercial zone. By allowing Bulky goods premises to be permitted with consent within this zone, it will eliminate the unintended need for existing premises to rely on the 'existing use rights' provisions of the <i>Environmental Planning & Assessment Act 1979</i> and <i>Environmental Planning & Assessment Regulation 2000</i> resulting from the gazettal of the <i>Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2011</i>

No.	SEPP Title	Applicable to Planning Proposal	Consistency
26	State Environmental Planning Policy – Littoral Rainforests	No, does not apply to the Albury LGA	N/A
29	State Environmental Planning Policy – Western Sydney Recreation Area	No, does not apply to the Albury LGA	N/A
30	State Environmental Planning Policy – Intensive Agriculture	Not applicable	N/A
32	State Environmental Planning Policy – Urban Consolidation (Redevelopment of Urban Land)	Not applicable	N/A
33	State Environmental Planning Policy – Hazardous & Offensive Industry	Not applicable	N/A
36	State Environmental Planning Policy – Manufactured Home Estate	Not applicable	N/A
39	State Environmental Planning Policy – Spit Island Bird Habitat	No, does not apply to the Albury LGA	N/A
41	State Environmental Planning Policy – Casino Entertainment Complex	No, does not apply to the Albury LGA	N/A
44	State Environmental Planning Policy – Koala Habitat Protection	Not applicable	N/A
47	State Environmental Planning Policy – Moore Park Showground	No, does not apply to the Albury LGA	N/A
50	State Environmental Planning Policy – Canal Estate Development	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
52	State Environmental Planning Policy – Farm Dams and Other Works in Land and Water Management Plan Areas	No, does not apply to the Albury LGA	N/A
53	State Environmental Planning Policy – Metropolitan Residential Development	No, does not apply to the Albury LGA	N/A
55	State Environmental Planning Policy – Remediation of Land	Not applicable	N/A
59	State Environmental Planning Policy – Central Western Sydney Regional Open Space and Residential	No, does not apply to the Albury LGA	N/A
60	State Environmental Planning Policy – Exempt & Complying Development	Not applicable – does not apply to land in the Albury LGA since gazettal of ALEP 2010	N/A
62	State Environmental Planning Policy – Sustainable Aquaculture	Not applicable	N/A
64	State Environmental Planning Policy – Advertising & Signage	Not applicable	N/A
65	State Environmental Planning Policy – Design Quality of Residential Flat Development	Not applicable	N/A
70	State Environmental Planning Policy – Affordable Housing (Revised Schemes)	No, does not apply to the Albury LGA	N/A
71	State Environmental Planning Policy – Coastal Protection	No, does not apply to the Albury LGA	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (Affordable Rental Housing) 2009	Not applicable	N/A
	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not applicable	N/A
	State Environmental Planning Policy (Exempt & Complying Development Codes) 2008	Yes, because the Planning Proposal seeks to permit Bulky goods premises within a commercial zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit Bulky goods premises within an existing commercial zone, thereby removing the need for a significant number of existing Bulky goods premises to rely on 'existing use rights'. This will allow a much wider application of exempt and complying development as the uses will no longer be prohibited.
	State Environmental Planning Policy (Housing for Seniors & People with a Disability) 2004	Not applicable	N/A
	State Environmental Planning Policy (Infrastructure) 2007	Not applicable	N/A
	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Major Development) 2005	Not applicable	N/A
	State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (Rural Lands) 2008	Not applicable	N/A
	State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Temporary Structures) 2007	Not applicable	N/A
	State Environmental Planning Policy (Western Sydney Employment Area) 2009	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Western Sydney Parklands) 2009	No, does not apply to the Albury LGA	N/A
	Regional Environmental Plan (deemed State Environmental Planning Policy) Murray REP No. 2 – Riverine Land	Yes applies to the Albury LGA	The Planning Proposal does not derogate from the aims, objectives, development consent, general and specific planning principles and consultation requirements as provided in the REP.

Table 2 – Consideration of Section 117(2) Ministerial Directions

No.	Direction Title	Applicable to Planning Proposal	Consistency
1. Employment and Resources			
1.1	Business & Industrial Zones	Yes, as the planning proposal will affect land within a business or industrial zone (B6 Enterprise Corridor Zone)	Consistent as the Planning Proposal does not seek to reduce the areas and locations of existing business and industrial zones and does not reduce the total potential floor space area for employment uses in business zones. The proposal seeks to permit Bulky goods premises within an existing commercial zone by rectifying an erroneous issue resulting from recent Standard Instrument changes and will therefore maintain the status quo of the previously gazetted ALEP 2010. As a consequence, the Planning Proposal is therefore consistent with this Direction and the general purpose of the B6 Enterprise Corridor Zone for commercial purposes.
1.2	Rural Zones	Not applicable	N/A
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable	N/A
1.4	Oyster Aquaculture	Not applicable	N/A
1.5	Rural Lands	Not applicable	N/A
2. Environment and Heritage			
2.1	Environmental Protection Zones	Not applicable	N/A
2.2	Coastal Protection	No (does not apply to land in the Albury LGA)	N/A
2.3	Heritage Conservation	Not applicable	N/A
2.4	Recreation Vehicle Areas	Not applicable	N/A

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AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
3. Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Not applicable	N/A
3.2	Caravan Parks & Manufactured Home Estates	Not applicable	N/A
3.3	Home Occupations	Not applicable	N/A
3.4	Integrating Land Use and Transport	Yes as the Planning Proposal seeks to alter a provision relating to urban land, including land zoned for business purposes.	Consistent, as the Planning Proposal has regard for the two DUAP documents referenced in this Direction and is zoned for urban purposes, which is already serviced by an existing transport network. It is further noted that the Planning Proposal only seeks to rectify an erroneous issue resulting from recent Standard Instrument amendments by reinstating Bulky goods premises as permitted with consent following their prohibition.
3.5	Development Near Licensed Aerodromes	Not applicable	N/A
4. Hazard and Risk			
4.1	Acid Sulphate Soils	No (does not apply to land in the Albury LGA)	N/A
4.2	Mine Subsidence & Unstable Land	No (does not apply to land in the Albury LGA)	N/A
4.3	Flood Prone Land	Not applicable	N/A
4.4	Planning for Bushfire Protection	Not applicable	N/A

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AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
5. Regional Planning			
5.1	Implementation of Regional Strategies	No (there is no regional strategy applicable to the AlburyCity LGA)	N/A
5.2	Sydney Drinking Water Catchment	No (does not apply to the AlburyCity LGA)	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	No (does not apply to the AlburyCity LGA)	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No (does not apply to the AlburyCity LGA)	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	No (does not apply to the AlburyCity LGA)	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No (does not apply to the AlburyCity LGA)	N/A
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No (does not apply to the AlburyCity LGA)	N/A
5.8	Second Sydney Airport: Badgerys Creek	No (does not apply to the AlburyCity LGA)	N/A
6. Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Consistent, as the Planning Proposal does not propose to add any provisions which require referral of development applications to the Minister.
6.2	Reserving Land for Public Purposes	Not applicable	N/A
6.3	Site Specific Provisions	Not applicable	N/A

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	<i>Direction Title</i>	<i>Applicable to Planning Proposal</i>	<i>Consistency</i>
7. Metropolitan Planning			
7.1	Implementation of Metropolitan Strategy	Not applicable	N/A

Extract of the Albury Local Environmental Plan 2010

Albury Local Environmental Plan 2010

Current version for 13 July 2011 to date (accessed 15 August 2011 at 14:34)

[Land Use Table](#) » [Zone B6](#)

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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.

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Business premises; Community facilities; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Roads; Self-storage units; Sewage reticulation systems; Shop top housing; Take away food and drink premises; Timber yards; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Heavy industrial storage establishments; Home occupations (sex services); Industrial training facilities; Industries; Marinas; Mooring pens; Open cut mining; Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Vehicle body repair workshops; Wharf or boating facilities

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Extract of the Albury Land Use Matrix

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Extract of the Albury Development Control Plan 2010

Albury DCP 2010

- The retention of acoustic and visual privacy of residents of properties in the R1 General Residential Zone, including the incorporation of landscaping buffers within the setbacks to these adjoining properties.
- The hours of operation of the proposed development.
- Levels of traffic generation of the proposed development.
- Any noise, light, dust and odour nuisance likely to be generated by the proposed development.
- Over-shadowing of, and retention of solar access by, properties in Residential Zones. The siting and design of buildings within the proposed development shall allow for reasonable solar access to adjoining buildings, streets and places.

11.9 DEVELOPMENT IN THE B6 ENTERPRISE CORRIDOR ZONE

Albury contains a B6 Enterprise Corridor Zone, located on the Riverina Highway in East Albury, within proximity to the Albury Airport. Its location at this eastern gateway to the city provides an important strategic and visually prominent entry point to the central Albury area for highway related vehicular traffic, as well as, arrivals from the Albury Airport. The B6 Enterprise Corridor Zone also adjoins an existing R1 General Residential Zone to the immediate west. Accordingly, the intent of the zone is to promote commercial development that does not detract from the functions of the predominant Central Business Districts of Albury, is visually attractive in design and landscaping and is compatible with the residential uses adjoining these lands.

11.9.1 Preferred Land Uses – B6 Enterprise Corridor Zone

Objectives

1. To ensure the B3 Commercial Core and B4 Mixed Use Zones of the Albury and Lavington CBD's maintain their primacy as the predominant commercial and retail locations of Albury.
2. To encourage bulky good and homemaker related businesses to locate within this zone.

Controls

- i. Land Use Types shall be bulky goods and homemaker related businesses. Such uses considered appropriate include:
 - Furniture, bedding and floor covering outlets.
 - 'Whitegood' outlets.
 - Bathroom and Kitchen retailers.
 - Doors, windows and blind outlets.
 - Other like bulky good and homemaker businesses.

Albury DCP 2010

- ii. Land Use Types that Council deems inappropriate within the B6 Enterprise Corridor Zone include:
- Retail and clothing outlets.
 - Offices.
 - Automotive accessories.
 - Food produce industries.
 - Sporting equipment and leisure goods.
 - Toys and game outlets.
 - Any other land use type that Council considers not bulky goods or homemaker related.

Notation

Such uses shall be in accordance with the definition of bulky goods premises in the LEP dictionary.

11.9.2 Development within Proximity to the R1 General Residential Zone

Objective

1. To ensure the level of residential amenity of adjoining residential land is maintained and enhanced through future redevelopment.

Controls

- i. Development within the B6 Enterprise Corridor Zone is to address the following matters to the satisfaction of Council:
- The relative building scale, bulk, design and height and the siting of the proposed development.
 - The retention of acoustic and visual privacy of residents of properties in the R1 General Residential Zone, including the incorporation of landscaping buffers within the setbacks to these adjoining properties.
 - The hours of operation of the proposed development.
 - Levels of traffic generation of the proposed development.
 - Any noise, light, dust and odour nuisance likely to be generated by the proposed development.
 - Over-shadowing of, and retention of solar access by, properties in the R1 General Residential Zone. The siting and design of buildings within the proposed development shall allow for reasonable solar access to adjoining buildings, streets and places.

Albury DCP 2010

11.9.3 Building Envelope – B6 Enterprise Corridor Zone

Objectives

1. To ensure consistency with the building heights of adjoining low-density residential developments.
2. To enable sufficient space on site for high quality landscaping.
3. To prevent excessive building bulk.

Controls

Building Height

- i. The maximum building height is 8 metres.

Building Setbacks

- ii. The minimum setback to the Riverina Highway road reserve and any other internal roads created 8 metres.
- iii. The minimum side setback is 4 metres.

Site Building Coverage

- iv. The maximum site coverage for buildings is 50% of the total lot.
- v. A minimum area of 30% of the total lot is to be retained as soft, pervious or landscaped areas (excluding hard surfaces).

11.9.4 Car Parking – B6 Enterprise Corridor Zone

Objective

1. To ensure that developments provide sufficient car parking on the development site.

Controls

- i. Future car parking should be concentrated into consolidated off-street locations and accessed primarily from internal circulation streets.
- ii. Future car parking shall be provided in a coordinated manner, for each component land use and in accordance with the standards and rates outlined in Part 17 of this DCP, which relates to Off Street Car Parking.

11.9.5 Landscaping Requirements – B6 Enterprise Corridor Zone

Objective

1. To ensure that development is of a high quality presentation through appropriate landscaping.

Albury DCP 2010

Controls

- i. Development in the B6 Enterprise Corridor Zone is to incorporate the following:
 - The planting of vegetation.
 - Screening of the bulk of the buildings when viewed from the adjoining land uses, where relevant.
- ii. All non-residential development in the zone is to be accompanied with a detailed landscape plan, excluding development that, in the opinion of the Council, consists of minor additions and alterations to an existing building. The landscaping plans should address the following as a minimum:
 - The location, size and species of existing vegetation to be affected by the development, including trees, hedges, large shrubs, shrub beds and any areas of natural vegetation.
 - Replacement planting for any vegetation which is proposed to be removed.
 - A planting plan showing the location and expected size within 10 years of each tree and large shrub.
 - A schedule (table) indicating the common name, botanic name, expected ultimate height and width and planting size (pot size and height), if relying on planting of trees or large shrubs for privacy.
 - A planting plan showing location and indicative planting for mid/low shrubs and ground covers.

Notation

Refer to Appendix A of this DCP, which relates to Information Requirements for Applications, in particular landscape plans.

11.10 DEVELOPMENT IN THE B7 BUSINESS PARK ZONE

The B7 Business Park Zone applies to land located on the northern outskirts of the City and is identified within the Albury Land Use Strategy as having an important strategic role as a transport interchange and employment generator for the City. Like the B6 Enterprise Corridor Zone, this site requires the creation of a well-designed and highly attractive development as it is highly visible from a key road entry point to Albury.

11.10.1 Services and Infrastructure – B7 Business Park Zone

Objective

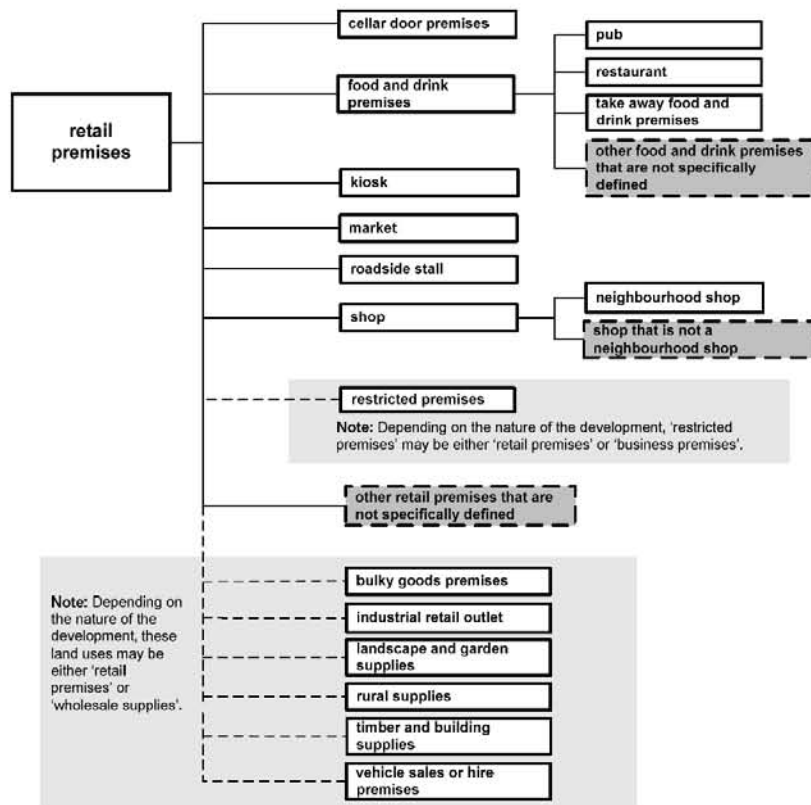
1. To provide the Zone with the full range of services and infrastructure necessary to cater for the needs of the preferred types of land uses.

Extract of Planning Circular PS 11-011

Department of Planning circular PS 11-011

COMMERCIAL PREMISES – RETAIL PRE-2011 HIERARCHY

LAND USE terms WITHIN retail premises group term:



LAND USE terms OUTSIDE commercial premises group term:

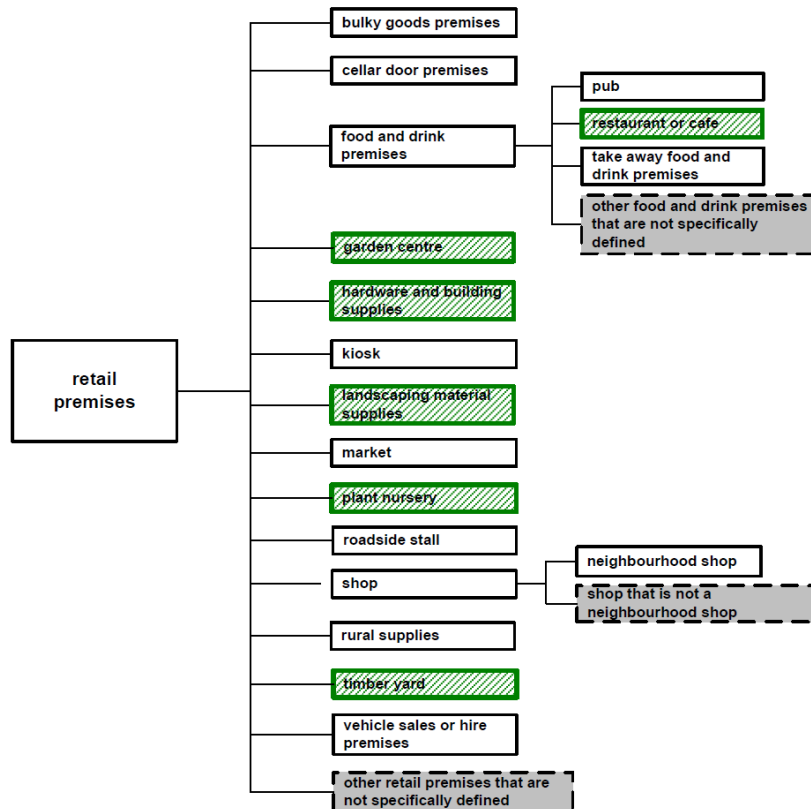
Examples:

highway service centre

service station

2011 HIERARCHY

LAND USE terms WITHIN retail premises subset (within commercial premises group term):



LAND USE terms OUTSIDE commercial premises group term:

Examples:

highway service centre

industrial retail outlet

restricted premises

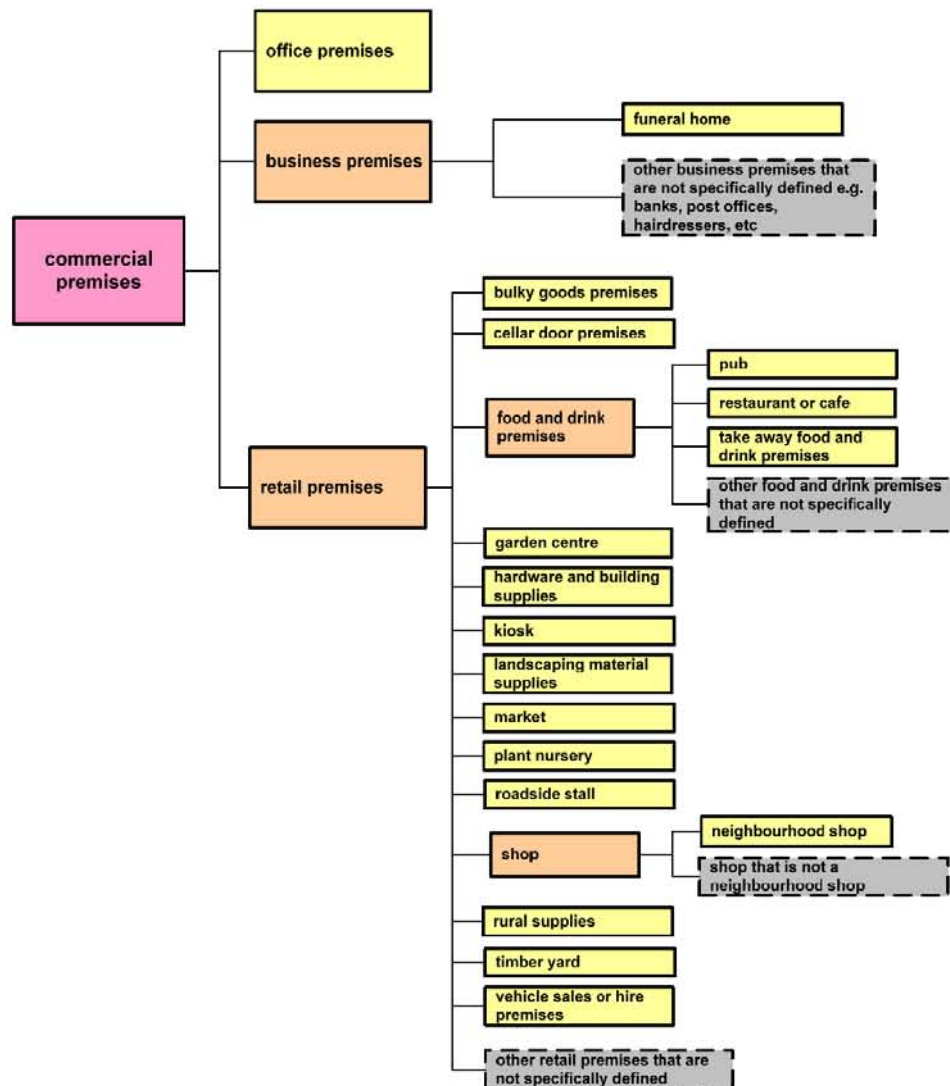
service station

Extract of Planning Practice Note PN 11-003

Department of Planning Practice Note PN 11-003

COMMERCIAL PREMISES – RETAIL

LAND USE terms WITHIN **commercial premises** group term:



LAND USE terms OUTSIDE **commercial premises** group term

Examples:

highway service centre

industrial retail outlet

restricted premises

service station

ATTACHMENT 4:

Key changes to dictionary terms made through the SI Amendment Order 2011

The Standard Instrument (Local Environmental Plans) Amendment Order 2011 was published on 25 February 2011. It amends the *Standard Instrument (Local Environmental Plans) Order 2006* including the *Standard Instrument—Principal Local Environmental Plan (the standard LEP)*.

The primary objective of the amending order is to improve the efficiency of delivery of Standard LEPs and it aims to ensure existing land use terms do not overlap across definitions and the relationship between definitions is clearer, through the inclusion of new terms, amendments to existing terms, and cross referencing the group term/sub-term relationships. Group terms all contain the sub-terms they encompass. Each sub-term now includes a note confirming which group term they are a type of. It has now also been clarified which terms can be used in the Land Use Table and which terms can not (see Direction 5 at the beginning of the Land Use Table).

New, renamed and amended definitions

- **Aboriginal place of heritage significance** has been renamed from *place of Aboriginal significance* to cluster related Aboriginal heritage terms in the Dictionary for ease of use;
- **agricultural produce industry** now includes reference to *wineries* in its definition;
- **attached dwelling, dual occupancy, multi dwelling housing, secondary dwelling and semi-detached dwelling** no longer contain the wording '(not being an individual lot in a strata plan or community title scheme)'. This enables councils to approve attached dwellings on such lots if deemed appropriate for their council area. A new optional clause 4.4AA has been included in the Order for councils who wish to retain control over community title lot size for certain residential accommodation;
- **archaeological site** is now the same as the definition in the *Heritage Act*, and no longer makes reference to the Heritage Map or listing in Schedule 5;
- **bed and breakfast accommodation** now includes a reference that this use can only be considered where there is an *existing* dwelling. This is to avoid situations where, for example, a development application is lodged for a *bed and breakfast accommodation* in zones where dwelling houses may no longer be permitted;
- **beekeeping** already exists as part of *extensive agriculture* but is now to be defined as a new stand alone land use, so it can be permitted if appropriate in areas not suited to broader agricultural activities such as in forestry areas;
- **boat building or repair facilities** has been renamed to clarify it covers more than 'repair', by specifically referencing 'boat building';
- **brothel** now provides a note directing readers to the definitions of *home occupation (sex services)* and *sex services premises*;
- **building height** (or **height of building**) has been amended to be consistent with the Codes SEPP, removing the words 'at any point.' The definition of *ground level (existing)* which *building height* references means the existing level of a site at any point;
- **bulky goods premises** is included in the group term 'retail premises' and now requires applicants to meet *both* parts (a) and (b). It also includes some examples of what might constitute bulky goods including floor and window supplies, swimming pools and equestrian supplies;
- **business premises** now clarifies that it includes a *funeral home* and excludes *entertainment facilities, restricted premises, medical centres* and other land uses;
- **camping ground** exists as part of the definition of *caravan park* but is now to be clearly provided as a stand alone use, so it can be permitted if appropriate in areas of environmental sensitivity where *caravan parks* may not be suitable;
- **cellar door premises** has been amended to change the requirement that *all* of the wine offered for sale is produced in a winery situated on that land or produced predominantly from grapes in the local area, to *most* to enable greater flexibility;
- **cemetery** now includes provision for pets and clarifies it can contain an associated building for conducting memorial services;
- **coastal hazard** is included to assist in the application of a new subclause included in Clause 5.5 *Development within the coastal zone*;
- **coastal protection works** is not a Land Use Table term, but is separated from the definition of *environmental protection works* as its permissibility is covered through the Infrastructure SEPP;

with an *industry*, *rural industry*, *extractive industry* or *mining*;

- **industry** is a group term which has been revised to clarify that it includes *light industry*, *general industry* and *heavy industry*, but does not include *rural* or *extractive industries* or *mining*;
- **light industry** has been revised to clarify that it covers both a *high technology industry* and *home industry*;
- **maintenance** in relation to heritage matters now makes specific reference to *Aboriginal objects* and *Aboriginal place of heritage significance* given these terms are no longer covered by *heritage item* so they do not have to be mapped and their location detailed;
- **marina** has been amended to refer to berthing or mooring facilities, rather than any associated single mooring;
- **medical centre** has been clarified as a type of *health services facility*;
- **mooring pen** is a new land use definition to provide for the mooring or berthing of a boat, and can be used outside the application of a *marina*;
- **neighbourhood shop** has been amended to clarify that general (as opposed to specialist) merchandise can be sold where items provide for the day-to-day needs of people in the area. It is also confirmed as a type of *shop*;
- **nominated State heritage item** is a new term to assist in the interpretation of Clause 5.10(9);
- **open cut mining** and **underground mining** are new definitions recognising these different forms of mining. *open cut mining* can be used in the Land Use Table;
- **registered club** has been amended to reflect the fact clubs are now issued club licences under the *Liquor Act 2007*;
- **relic** now refers to the definition in the *Heritage Act 1977*;
- **residential accommodation** as a group term has been clarified to detail which land use terms it covers;
- **residential care facility** has been amended to clarify it does not include a *hostel*;
- **resource recovery facility** now includes composting in its definition, aligning it with that in the Infrastructure SEPP;
- **respite day care centre** is a new land use term that has been added to ensure this important use is permissible in a wide variety of zones, to provide short-term, temporary relief for carers of people with a disability or the elderly, who might

otherwise require permanent placement in a facility outside the home;

- **restaurant or cafe** has been renamed from *restaurant* and its principal purpose clarified to be the preparation and serving of food and drink on premises, to avoid confusion with *pub*. Other definitions such as *food and drink premises*, *highway service centres* and *hospitals*, which previously referenced *restaurant* have been amended to reflect this name change;
- **restricted premises** has been removed from the previous link to *business premises* and *retail premises* to avoid confusion;
- **retail premises** remains a group term but more land uses have been prescribed than was previously the case. This provides greater flexibility and opportunity for competition. It now clarifies that a *service station* is not part of the group term;
- **rural worker's dwelling** has been amended to capture a 'building or place' that is 'additional' to a dwelling house on the 'same lot' of land where *agricultural* or *rural industry* employees live, whether for short or term periods;
- **shop** now refers to the broader term 'merchandise' rather than 'general merchandise', and the hiring of this merchandise. It also includes a *neighbourhood shop*;
- **shop top housing** has had the previous wording 'or otherwise attached to' removed;
- **storage premises** now clarifies it includes *self-storage units*, but not *heavy industrial storage premises* or a *warehouse or distribution centre*;
- **telecommunications facility** has been expanded to be consistent with the Infrastructure SEPP;
- **tourist and visitor accommodation** has been clarified to specifically include *farm stay accommodation*, and exclude *camping grounds*, *caravan parks* and *eco-tourist facilities*;
- **wharf or boating facilities** is a new term that enables councils to permit facilities associated with a wharf or boating outside designated ports.

Terms consolidated or removed

- **biosolid waste application** has been removed as it is ancillary to other uses;
- **funeral chapel** has been included in the definitions of *funeral home*, *cemetery* and *crematorium*;