

Draft LEP Amendment No. **24**

**s.55 planning proposal  
filming**

**Version 1 – Gateway Determination  
August 2016**

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## Part 1 Objectives and intended outcomes

This proposal is to amend cl.2.8 of the Tweed Local Environmental Plan 2014 (“the LEP”) to remove the proscriptive maximum period of use for ‘filming’ on rural zoned land, to the effect that it would be the same as currently exists for ‘sales office’ under subclause 2.8(4).

The proposal is to amend subclause 2.8(5) also to enable an assessment of the appropriateness of retaining any building or works associated with the temporary filming use to be assessed with a development application and conditioned accordingly. This will likewise have the effect of applying the same rules to filming on rural zoned land as currently exists for ‘sales office’.

Tweed Shire Council at its Ordinary Meeting of 21 July 2016 resolved:

1. *The Tweed Local Environmental Plan 2014 be amended to permit filming, with development consent, on rural zoned land within the Tweed Shire local government area, and*
2. *A planning proposal be prepared detailing the extent of the required amendment(s) to the Tweed Local Environmental Plan 2014, and*
3. *The planning proposal is to be forwarded to the Department of Planning and Environment for a Gateway determination at the earliest time.*

For the purpose of clarity, filming is currently permitted with consent within all of the ‘open’ zones under the LEP. An open-zone is one that prohibits only development prescribed as ‘prohibited’, leaving other nominate or innominate uses as permitted with consent by virtue of the exception to Item 3, which reads; “any other development not specified in item 2 or 4”. The rural zone is a closed zone.

This approach is consistent with that advised by the Department of Planning and Environment in their correspondence of 2 June 2016, as attached.

## Part 2 Explanation of provisions

The just and efficient enabling proposal is to amend cl.2.8(4) & (5) to include the land use term “filming” with the restriction “on rural zoned land”.

This would enable filming, which is currently ‘permitted with consent’, as a ‘temporary use of land’, but allow the duration of the proposed use to be determined on the specifics and merits of that proposal. It will likewise enable any approved improvements to the land to be evaluated for their retention or removal, and to be conditioned accordingly.

An illustration of what the proposed amendment may look like is provided below:

### 2.8 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

- (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of land for filming on rural zoned land or use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of land for filming on rural zoned land or use of a dwelling as a sales office mentioned in subclause (4).

## 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 the result of a change in the permissibility of the filming use arising from the making of the LEP pursuant to the Standard Instrument (Local Environmental Plans) Order 2006, and subsequent related NSW Planning and Environment 'Practice Notes'.

This change in the law regulating filming on land within the Tweed LGA was not the result of a deliberate decision by Tweed Council; the evidence shows it was consequential on the application of LEP Practice Note PN 11-003 (as attached). This practice note specifically operated to prevent councils from using the land use term 'filming' within the land use tables. As discussed above, this had the 'defaulting' effect of maintaining the permissibility of filming within 'open' zones and prohibiting filming in the 'closed' zones.

At the time, PN 11-003 was consistent with the *NSW Local Government Filming Protocol*, which was released by the former Department of Local Government in 2009. The resulting regulation does not therefore take account of the broader needs and operating parameters of the film production industry and the economic importance of this industry to NSW.

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

This planning proposal represents the most expedient way of achieving the desired result and will enable Tweed Council to respond to an emerging demand from the film industry for film production in remote, secluded areas of natural splendour, and to endeavour to retain this industry in NSW.

A longer term view for providing greater certainty for this industry and to better reflect NSW government's stated objective to support and foster this industry in NSW would be an amendment to the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, a separate industry specific SEPP, an amendment to the Standard Instrument Order or specific LEPs, to permit filming as permitted with consent within the zone schedule.

These latter alternative approaches will likely require a longer lead time to introduce, and as time is of the essence they represent the least preferred option to that otherwise proposed by this planning proposal.

## Section B Relationship to strategic planning framework

### 1 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)?

| Relationship with, and consistency of this planning proposal with the Far North Coast Regional Strategy 2006-2031                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| Objectives                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>To summarise the objectives of the Strategy in so far as they can be related to this planning proposal they are to ensure there are opportunities for a stronger economy and appropriate measures are taken to protect, preserve and manage the environment and natural resources.</p> <p>The overarching objective is to plan for the management of regional growth.</p> |                                                                                                                                                                                                                                                                                                                                                                                                           | <p>This planning proposal is not inconsistent with these aims. The amendment will provide a more pragmatic response to emerging filming opportunities in the Tweed region and allow for a tailored approval. This process encompasses merit assessment on a case by case approach within which impact upon the environment or access to resources can be adequately addressed or mitigated.</p> <p>Public consultation on filming proposals would be best served at the development proposal stage, when the details and specifics of a project are ascertainable. At the strategic planning level it is impossible to describe the universe of possibilities that may occur and as such it would be superficial of any assessment of the proposed amendment to conclude that it categorically will or will not have some level of impact. It is sufficient however of such a proposal to postulate that any impact subsequently arising will be an indirect effect of the amendment through a subsequent development proposal and not directly attributable to the amendment itself, as might; by way of example, be the case of a land rezoning, reclassification or introduction of an entirely new land use.</p> |
| Actions of Relevance                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Theme                                                                                                                                                                                                                                                                                                                                                                        | Related Action                                                                                                                                                                                                                                                                                                                                                                                            | Consistency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Regional Challenges                                                                                                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>utilise the Region's reputation to build on the key industry sectors while protecting the natural resources on which these industries depend</li> <li>support and strengthen the Region's economic base by implementing the specific strategies and actions identified in the Regional Industry and Economic Plan for the Northern Rivers (NRRDB 2005).</li> </ul> | <p>Not inconsistent because this proposal seeks to enable possibilities for a specific industry; to enable substantial investment within this sector with certainty. This will be managed through an established statutory process capable of tailoring the environmental assessment and pragmatic solutions to mitigate loss of resource access or productivity, while allowing for other value adding / economic contributing industries to establish for defined periods.</p> <p>The filming industry offers significant benefits to the region, the more apparent being economic benefits to local businesses, employment and national and international advertising.</p> <p>This is consistent with the Northern Rivers Regional Industry and Economic Plan, which specifically seeks to implement actions that will:</p> <ul style="list-style-type: none"> <li>Promote economic development and employment growth in the Northern Rivers region;</li> <li>Assist capitalisation on the region's strengths to broaden and reposition the industry base of the Northern Rivers and to develop new products and markets;</li> <li>Develop solutions for regional or local business</li> </ul>                    |

|                                            |                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |                                                                                                                                                                                                                                                                                           | <ul style="list-style-type: none"> <li>development challenges; and</li> <li>Identify opportunities to fill gaps left by the market system</li> </ul>                                                                                                                                                                                                                                                                                                                                                          |
| Environment and natural resources          | Nil                                                                                                                                                                                                                                                                                       | <p>The Actions under this theme largely relate to LEPs in a broader sense, particularly those making zoning amendments or introducing new land uses into zone schedules, or similar.</p> <p>This proposal does not propose significant change in that sense; it extends to removing a proscriptive element of the cl.2.8 provision to enable the consent authority to decide on the facts and circumstances of the case what duration of use is appropriate, as distinct from applying an arbitrary rule.</p> |
| Cultural heritage                          | Nil                                                                                                                                                                                                                                                                                       | Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme                                                                                                                                                                                                                                                                                                                                                                                              |
| Natural hazards                            | Nil                                                                                                                                                                                                                                                                                       | Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme                                                                                                                                                                                                                                                                                                                                                                                              |
| Settlement and housing                     | Nil                                                                                                                                                                                                                                                                                       | Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme                                                                                                                                                                                                                                                                                                                                                                                              |
| Settlement character and design            | Nil                                                                                                                                                                                                                                                                                       | Not inconsistent, as this proposal does not introduce, remove or alter land use regulation related to this theme                                                                                                                                                                                                                                                                                                                                                                                              |
| Economic development and employment growth | <ul style="list-style-type: none"> <li>Local environmental plans (and other relevant planning provisions) will facilitate employment growth in regional and major town centres, appropriate homebased employment, and local jobs in towns, villages and neighbourhood centres.</li> </ul> | Not inconsistent because the premise of this amendment is to broaden the attractiveness of the Tweed region to filming opportunities, with the aim of facilitating greater opportunity for local employment, economic activity and related spin-offs, which will benefit rural villages amongst others                                                                                                                                                                                                        |

Table 1: Relationship with, and consistency of this planning proposal with the Far North Coast Regional Strategy 2006-2031.

## 2 Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

### Key related themes:

|       |                                                                                                                                                                              |                                                                                                                                                                                                                                             |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.5.3 | The Tweed Local Environmental Plan will be reviewed and updated as required to ensure it provides an effective statutory framework to meet the needs of the Tweed community. | Consistent because the current LEP regulation for filming does not meet broader community needs through the proscriptive nature of the current cl.2.8 provision.                                                                            |
| 3.1   | Expand employment, tourism and education opportunities                                                                                                                       | Consistent because this planning proposal seeks to amend the LEP to expand the opportunity for filming industry projects in the region that require a longer period of use                                                                  |
| 3.1.4 | Market the Tweed as a destination for business and tourism.                                                                                                                  | Consistent because filming industry projects provide the potential for free national and international marketing of the region's unique and splendourous natural environments, which in turn can influence and promote tourism and business |

### **3 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPPs)?**

The planning proposal is not inconsistent with any State Environmental Planning Policy applying to the Tweed local government area.

#### 4 Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

The planning proposal is consistent with the Ministerial s117 Directions, as outlined in the following table.

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                                             | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                       | Consistency with direction |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>1. Employment and Resources</b>                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                           |                            |
| 1.1 Business and Industrial Zones                          | <p><u>Objective</u><br/>Summary; to protect, encourage and support employment / strategic centres</p> <p><u>Application</u><br/>When a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p>                                                                                                                                           | Not relevant because these are 'open' zones and filming is presently regulated as permitted with consent.                                                                                                                                                                                                                                                                                 | Not inconsistent           |
| 1.2 Rural Zones                                            | <p><u>Objectives:</u><br/>The objective of this direction is to protect the agricultural production value of rural land.</p> <p><u>Application:</u><br/>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</li> </ul> | Not relevant because the proposal does not amend any land zoning or alter the permissible density of land in a rural, or any other, zone. The amendment seeks to make permissible a longer duration of use for filming as a temporary use of land above the current limit, and if appropriate for the land to permit the retention of any approved works associated with the filming use. | Not inconsistent           |
| 1.3 Mining, Petroleum Production and Extractive Industries | <p><u>Objectives:</u><br/>Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development</p>                                                                                                                                                                                                                                                                                        | <p>Relevant because this planning proposal will permit with development consent the temporal use of land for filming for a longer duration than is currently permitted.</p> <p>Filming land-use is currently permitted under the Codes SEPP or</p>                                                                                                                                        | Not inconsistent           |

Table 2- Consistency with s117(2) Directions

| S117 Direction         | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Consistency with direction |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                        | <p><u>Application:</u><br/>When a relevant planning authority prepares a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> <li>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</li> <li>(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.</li> </ul> | <p>under cl.2.8 with consent, but is limited to 30 days in a calendar year under the SEPP and 52 days in any 12 month period under the LEP.</p> <p>The proposed amendment to the LEP will maintain the need for consent and the use being temporary, but there will be no prescribed limit on the duration. The premise is that current regulation is too onerous and denies a tailored approach, that a merit assessment on a case by case approach is better suited to this land-use. Given the limited number of major filming activities and the economic spin-offs that can arise, this represents a more logical basis for regulating filming in the closed zones. It also provides a regulatory approach more aligned to the open zones where filming is permitted with consent and without there being a temporal element.</p> |                            |
| 1.4 Oyster Aquaculture | <p><u>Objectives:</u><br/>To protect Priority Oyster Aquaculture Areas (POA) and oyster aquaculture outside such an area, from adverse impacts on water quality, the health of the oysters and oyster consumers</p> <p><u>Application:</u><br/>When there is a change in land use that could result with adverse impact or incompatibility</p>                                                                                                                                                                                                                              | <p>Relevant because there are a number of oyster producers operating in the Tweed estuary, with a limited number of POAs, as depicted in Figure 1 below.</p> <p>Filming is currently permitted without consent under the Codes SEPP, but is limited to 30 days in a calendar year, or under the LEP for a period of 52 days in any 12 month period, with consent. The amendment will regulate that the temporary use of land for filming under the LEP will maintain the requirement for approval, but will remove the prescribed duration of use so that a tailored response to individual proposals can better be reflected and managed in the approval.</p>                                                                                                                                                                         | Not inconsistent           |
| 1.5 Rural Lands        | <p><u>Objectives:</u><br/>To protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.</p> <p><u>Application:</u><br/>when:</p> <ul style="list-style-type: none"> <li>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including</li> </ul>                                                                                                                   | <p>Relevant because cl.2.8 is a provision with has shire-wide application. However, it will have no direct impact on current zoning or lot size.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                     | Application                                                                                                                                                                                                                                          | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                                            | Consistency with direction |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                    | the alteration of any existing rural or environment protection zone boundary) or<br>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. |                                                                                                                                                                                                                                                                                                                                                                                                                |                            |
| <b>2. Environment and Heritage</b> |                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                |                            |
| 2.1 Environment Protection Zones   | <u>Objective</u><br>To protect and conserve environmentally sensitive areas<br><br><u>Application</u><br>when a relevant planning authority prepares a planning proposal                                                                             | Not relevant to this planning proposal because it does not seek to amend the zoning of land or change regulation that might otherwise cause or impact the vulnerability of environmentally protected lands.                                                                                                                                                                                                    | Not inconsistent           |
| 2.2 Coastal Protection             | <u>Objective</u><br>To implement the principles in the NSW Coastal Policy<br><br><u>Application</u><br>when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone                                      | Not relevant to this planning proposal because it does not directly bring about a change to land within the coastal zone, nor does it change the permissibility of land-uses under cl.2.8; its effect is primarily to remove the prescribed duration of use specifically for a filming use.                                                                                                                    | Not inconsistent           |
| 2.3 Heritage Conservation          | <u>Objective</u><br>To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance<br><br><u>Application</u><br>when a relevant planning authority prepares a planning proposal            | Not relevant to this planning proposal because it is not altering any regulation affecting heritage conservation, including zoning, and is not of itself capable of conserving heritage significance. Heritage conservation provisions within the LEP work in tandem with the development assessment provisions applicable to any future approval arising under cl.2.8 – that requirement is not being amended | Not inconsistent           |
| 2.4 Recreation Vehicle Areas       | <u>Objective</u><br>To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles                                                                                                             | Not relevant to this planning proposal because it does not seek to change the regulation of recreation vehicles or land on which a recreation vehicle access or development may occur                                                                                                                                                                                                                          | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                                          | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Relevance to this planning proposal                                                                                                                                                                                                                                                | Consistency with direction |
|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                                         | <u>Application</u><br>When a relevant planning authority prepares a planning proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                    |                            |
| <b>3. Housing, Infrastructure and Urban Development</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                    |                            |
| 3.1 Residential Zones                                   | <u>Objective</u><br>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,<br>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and<br>(c) to minimise the impact of residential development on the environment and resource lands.<br><br><u>Application</u><br>When a relevant planning authority prepares a planning proposal that will affect land within:<br>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),<br>(b) any other zone in which significant residential development is permitted or proposed to be permitted. | Not relevant to this planning proposal because the regulation proposed for amendment relates to the temporary use of land not permanent residential uses; it has no bearing on the objectives of this Direction regarding residential zones and their use for residential purposes | Not inconsistent           |
| 3.2 Caravan Parks and Manufactured Home Estates         | <u>Objective</u><br>(a) to provide for a variety of housing types, and<br>(b) provide opportunities for caravan parks and manufactured home estates<br><br><u>Application</u><br>When a relevant planning authority prepares a planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Not relevant to this planning proposal because cl.2.8 does not regulate caravan parks and manufactured home estates; that regulation resides within the zoning schedules and no alteration of these is proposed                                                                    | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                         | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Relevance to this planning proposal                                                                                                                                                                                                                           | Consistency with direction |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                        | proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                               |                            |
| 3.3 Home Occupations                   | <p><u>Objective</u><br/>To encourage the carrying out of low-impact small businesses in dwelling houses</p> <p><u>Application</u><br/>When a relevant planning authority prepares a planning proposal</p> <p><u>What a must occur</u><br/>planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Not relevant to this planning proposal because it does not propose to alter the regulatory provisions for home occupations and is not amending any land-use zone schedule                                                                                     | Not inconsistent           |
| 3.4 Integrating Land Use and Transport | <p><u>Objective</u><br/>To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight</li> </ul> <p><u>Application</u><br/>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist</p> | Not relevant to this planning proposal because the proposed amendment will not affect the stated objectives being (a) to (e), and even if there was some level of change it would be temporary in any case. It does not affect or propose the zoning of land. | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                          | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                              | Consistency with direction |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                         | purposes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                  |                            |
| 3.5 Development Near Licensed Aerodrome | <p><u>Objective</u></p> <ul style="list-style-type: none"> <li>(a) to ensure the effective and safe operation of aerodromes, and</li> <li>(b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and</li> <li>(c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</li> </ul> <p><u>Application</u></p> <p>When a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome</p> <p><u>What must be done</u></p> <p>Summary: for a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome the relevant planning authority must undertake specific / prescribed consultation and take certain prescribed matters into account</p> | Not relevant to this planning proposal because the proposed amendment does not 'set a control' in relation to introducing a land-use, as the filming land-use is currently permitted, not least as a temporary use of land. What this amendment seeks to achieve is a merit based assessment of the duration of that temporary use on a case by case basis opposed to an arbitrary proscription. | Not inconsistent           |
| 3.6 Shooting Ranges                     | <p><u>Objective</u></p> <ul style="list-style-type: none"> <li>(a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</li> <li>(b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</li> <li>(c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Not relevant to this planning proposal as it does not propose any land rezoning.                                                                                                                                                                                                                                                                                                                 | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                        | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Consistency with direction |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                       | <p><u>Application</u><br/>When a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range</p> <p><u>What must not be done</u><br/>A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of:</p> <ul style="list-style-type: none"> <li>a permitting more intensive land uses than those which are permitted under the existing zone; or</li> <li>b permitting land uses that are incompatible with the noise emitted by the existing shooting range.</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                            |
| <b>4. Hazard and Risk</b>             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                            |
| 4.1 Acid Sulfate Soils                | <p><u>Objective</u><br/>To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils</p> <p><u>Application</u><br/>When a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils, as shown on the Acid Sulfate Soils Planning Maps held by DP&amp;E.</p>                                                                                                                                                                                                                                                                       | Not relevant to this planning proposal because it does not directly bring about a change to land within areas potentially affected by acid sulfate soils, nor does it change the permissibility of land-uses under cl.2.8; its effect is only to alter the length of time a use for filming may occur under that clause, subject to development consent. Any subsequent development of land under the amended cl.2.8 will continue to be assessed for its environmental impact regarding acid sulfate soils | Not inconsistent           |
| 4.2 Mine Subsidence and Unstable Land | <p><u>Objective</u><br/>To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence</p> <p><u>Application</u><br/>When a relevant planning authority prepares a planning</p>                                                                                                                                                                                                                                                                                                                                                                                                                                 | Not relevant to this planning proposal because the use of land for filming is already a permitted use, as a temporary use of land in the rural zone, with development consent; it is the permissible duration of the filming use that is being proposed for amendment                                                                                                                                                                                                                                       | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                            | Application                                                                                                                                                                                                                                                                                                                                                                                                                                       | Relevance to this planning proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Consistency with direction |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                           | proposal that permits development on land that:<br>(a) is within a mine subsidence district, or<br>(b) has been identified as unstable in a study, strategy or other assessment undertaken:<br>(i) by or on behalf of the relevant planning authority, or<br>(ii) by or on behalf of a public authority and provided to the relevant planning authority                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                            |
| 4.3 Flood Prone Land                      | Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.                                                                                                                                                                                                                                                                                      | Not relevant to this planning proposal because the proposed amendment does not create, remove or alter a provision that affects flood prone land                                                                                                                                                                                                                                                                                                                                                                                                        | Not inconsistent           |
| 4.4 Planning for Bushfire Protection      | <p><u>Objective</u></p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas</p> <p><u>Application</u></p> <p>When a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> | Not relevant to this planning proposal because the amendment to cl.2.8 will not affect land mapped as bushfire prone land in a way different to how that land is already affected by that clause. If the amendment was introducing a new land-use the case may be different but, as it is the amendment does not seek to alter the permissibility of the use only the duration of that use                                                                                                                                                              | Not inconsistent           |
| <b>5. Regional Planning</b>               |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                            |
| 5.1 Implementation of Regional Strategies | <p><u>Objective</u></p> <p>To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies</p> <p><u>Application</u></p> <p>When a relevant planning authority prepares a planning proposal</p>                                                                                                                                                                                            | The Far North Coast Regional Strategy 2006 is the prevailing regional strategy in this locality, and it encourages economic development opportunities and management of rural and environmental lands. The proposed amendment is aimed at facilitating the broader use of rural land for filming and owing to the requirement for development consent can be readily assessed for environmental harm or impact. The proposal will allow for economic use of rural land on a temporary basis, contribute to local employment, and inject income to local | Not inconsistent           |

*Table 2- Consistency with s117(2) Directions*

| S117 Direction                                                             | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Relevance to this planning proposal                                                                                                                                                                                                         | Consistency with direction |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | businesses as well as having potential tourism benefits                                                                                                                                                                                     |                            |
| 5.2 Sydney Drinking Water Catchments                                       | Local government areas not including Tweed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Not relevant                                                                                                                                                                                                                                |                            |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | <p><u>Objective</u></p> <ul style="list-style-type: none"> <li>(a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre,</li> <li>(b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and</li> <li>(c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.</li> </ul> <p><u>Application</u></p> <p>Applies (to Tweed) when a relevant planning authority prepares a planning proposal for land mapped as: State significant farmland, regionally significant farmland, or significant non-contiguous farmland.</p> <p><u>What Must Not Occur</u></p> <p>A planning proposal must not:</p> <ul style="list-style-type: none"> <li>(a) rezone land identified as “State Significant Farmland” for urban or rural residential purposes.</li> <li>(b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.</li> <li>(c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.</li> </ul> | <p>This planning proposal does not seek to rezone any land or change the permissibility of a land-use within any zone, its purpose being an amendment to the temporal nature of filming as a temporary land use permitted under cl.2.8.</p> | Not Inconsistent           |
| 5.4 Commercial and Retail Development along the Pacific Hwy, North Coast   | <p><u>Objective</u></p> <p>Summary: managing commercial and retail development along the Pacific Highway to preserve and protect the safe function of the highway and its users</p> <p><u>Application</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Not relevant to this planning proposal                                                                                                                                                                                                      | N/A                        |

Table 2- Consistency with s117(2) Directions

| S117 Direction                             | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Relevance to this planning proposal                                                                                                                                                                     | Consistency with direction |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
|                                            | When a relevant planning authority prepares a planning proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                         |                            |
| 5.8 Second Sydney Airport: Badgerys Creek  | Applies to other local government areas than Tweed                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not relevant to this planning proposal                                                                                                                                                                  | Not inconsistent           |
| 5.9 North West Rail Link Corridor Strategy | Applies to other local government areas than Tweed                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not relevant to this planning proposal                                                                                                                                                                  | Not inconsistent           |
| <b>6. Local Plan Making</b>                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                         |                            |
| 6.1 Approval and Referral Requirements     | <u>Objective</u><br>To ensure that LEP provisions encourage the efficient and appropriate assessment of development<br><u>Application</u><br>When a relevant planning authority prepares a planning proposal<br><u>What must be done</u><br>Ensure provisions minimise concurrence roles, consultation or referral of DAs to a Minister or public authority, unless their consent is first granted to do so, not identify development as designated unless certain matters are addressed | Not relevant to this planning proposal because it does not propose an amendment of the kind referred to in the Direction.                                                                               | Not inconsistent           |
| 6.2 Reserving Land for Public Purposes     | <u>Objective</u><br>(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and<br>(b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.                                                                                                                                                                                                                      | Not relevant to this planning proposal because it does not create, reduce or alter existing zoned reserves, and is not the subject of a direction of the Minister or public authority for that purpose. | Not inconsistent           |

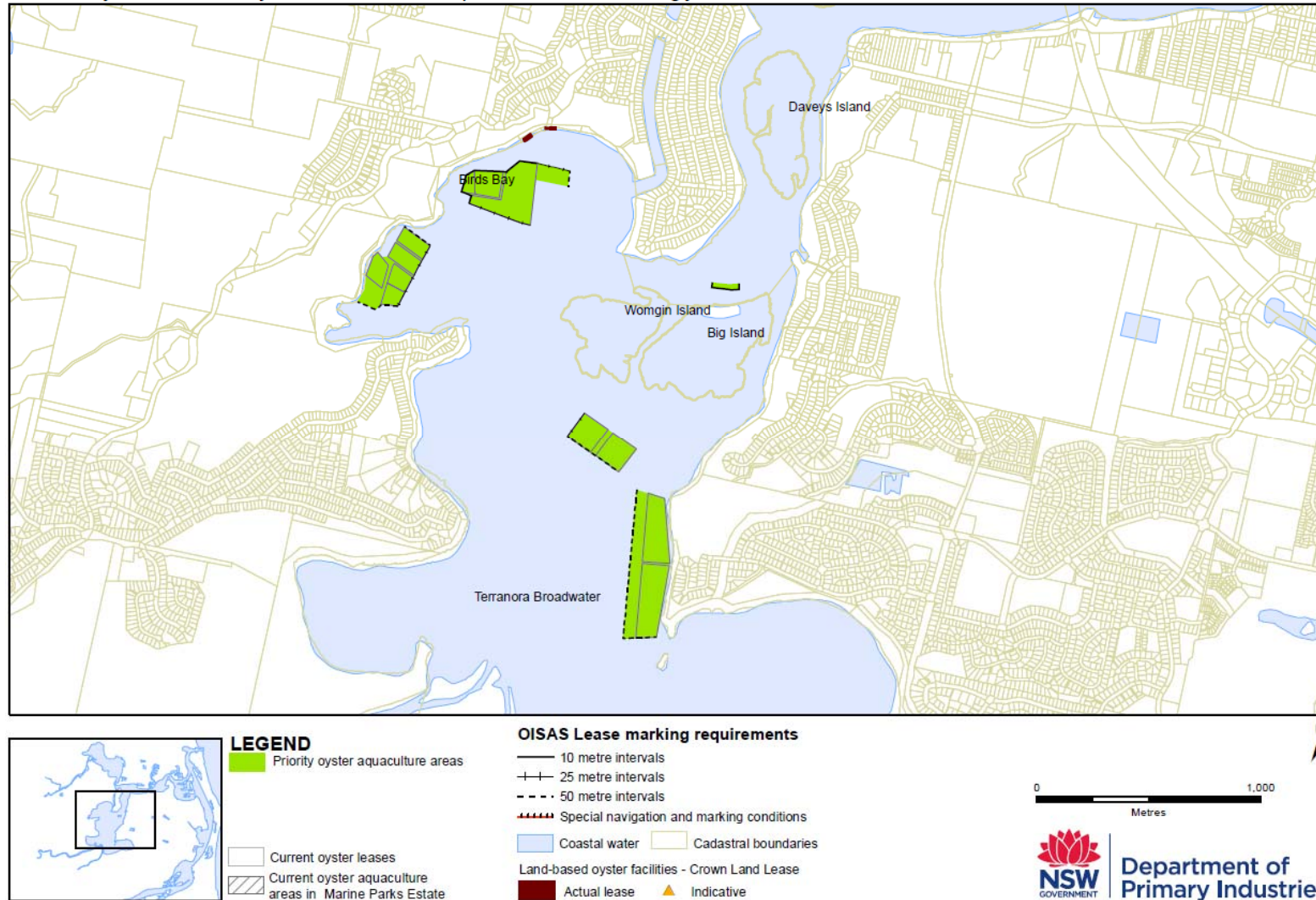
*Table 2- Consistency with s117(2) Directions*

| S117 Direction                                  | Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Relevance to this planning proposal                                                                                                                                                                         | Consistency with direction |
|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| 6.3 Site Specific Provisions                    | <p><u>Objective</u><br/>To discourage unnecessarily restrictive site specific planning controls.</p> <p><u>Application</u><br/>When a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out</p> <p><u>What must not be done</u><br/>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> <li>(a) allow that land use to be carried out in the zone the land is situated on, or</li> <li>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</li> <li>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended</li> </ul> | Relevant to this planning proposal as it seeks to amend a development standard within in an existing provision; to the effect that it will be less onerous relating to 'filming' than is presently the case | Not inconsistent           |
| <b>7. Metropolitan Planning</b>                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                             |                            |
| 7.1 Implementation of A Plan for Growing Sydney | Applies other local government areas other than Tweed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not relevant to this planning proposal                                                                                                                                                                      | Not inconsistent           |

**FIGURE 1**

N<sup>SW</sup> Oyster Industry Sustainable Aquaculture Strategy 2014

Tweed River



## Section C Environmental, Social and Economic Impact

**1 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?**

No. Temporary development for filming is currently permitted with consent, this proposal seeks to enable a broader assessment of the suitability of the timeframe on which a specific proposal may operate and whether it is appropriate to permit any approved works to remain on the land. This will be managed through merit assessment of an application under Part 4 of the *Environmental Planning and Assessment Act 1979*, and conditions of consent tailored to meet the needs of an approval.

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

No. See comment about mitigating approach to environmental harm at Item 1 above.

**3 How has the planning proposal adequately addressed any social and economic effects?**

The planning proposal does not give rise to direct social and economic effects. While this may occur indirectly through a future filming proposal these matters would be addressed through the merit based assessment referred to at Item 1 above.

## Section D State and Commonwealth interests

**1 Is there adequate public infrastructure for the planning proposal?**

The planning proposal does not cause reliance on or upgrades to or the provision of new public infrastructure. As noted at Item 3 to Section C a future filming proposal may indirectly cause demand on public infrastructure and such matters would be assessed through a merit based assessment.

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

This planning proposal is the basis for a gateway determination.

## Part 4 Mapping

The amendment is to a provision of the Tweed Local Environmental Plan 2014; there is no mapping associated with the amendment.

## Part 5 Community consultation

The Gateway determination will specify the community consultation that must be undertaken for this planning proposal. The consultation will be tailored to specific proposals generally on the basis of a 14 day exhibition period for low impact planning proposals and a 28 day exhibition period for all other planning proposals.

Tweed Council's consideration of the matter did not conclude with a recommendation regarding a period of public exhibition. Given that filming is a permitted land-use under cl.2.8 currently and requirement for development approval is maintained, and public notification of such application is reasonably foreseeable and certain, a formal public exhibition of the LEP amendment is not considered essential.

## Summary and conclusions

The objective and intended outcome of this planning proposal is to support the NSW Government's commitment to the filming industry, and its recognition of the economic value filming has for NSW. This will be achieved by permitting an assessment of the duration of an already permitted land use to be undertaken on a case by case basis, as opposed to an arbitrary proscriptive provision of 52 in any calendar year as presently prescribed. It will also permit an evaluation of whether any approved works are appropriate to remain on the land at the expiration of the temporary filming use, to enable any value adding works to remain in perpetuity, or for some other specified time.

The preferred method to achieve this outcome for present purposes is an amendment to cl.2.8(4) and (5).

## Part 6 Timeframe and information checklist

| Task                                                                                     | Timeframe             | Completed |
|------------------------------------------------------------------------------------------|-----------------------|-----------|
| Council Planning Committee meeting                                                       | July 2016             | Yes       |
| Referral of the planning proposal for Gateway determination                              | August 2016           |           |
| <b>Gateway Determination</b>                                                             | <b>August</b>         |           |
| Undertake requirements of the Gateway Determination and prepare V2 planning proposal     | August/September 2016 |           |
| Public exhibition                                                                        | TBA / September       |           |
| Agency consultation                                                                      |                       |           |
| Review submissions, respond and prepare V3 planning proposal for Council's consideration | October               |           |
| Council report to finalise and refer the plan to the DPE to be made                      | October/November      |           |
| Referral of the Plan to the DPE for making                                               | November              |           |
| Plan to be made within 6 months of Gateway                                               | December              |           |



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Murwillumbah NSW 2484



Mr Troy Green  
General Manager  
Tweed Shire Council  
PO Box 816  
Murwillumbah NSW 2484

16/07363

Dear Mr Green

Thank you for writing to the Hon. Rob Stokes MP, Minister for Planning about the requirements for obtaining approval for filming on private land in Tweed Shire. The Minister has asked me to reply on his behalf.

I appreciate the issues you have raised with the provisions of the planning system related to filming and the impacts they may have on a proposed production in the Tweed Shire.

The current exempt provisions limit filming to a maximum period of thirty days in a calendar year on private land under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the SEPP). This is consistent with the NSW Local Government Filming Protocol which was released by the former Department of Local Government in 2009. I understand that the proposed filming will occur over a longer duration than 30 days.

As you have pointed out, the Standard Instrument LEP does not permit filming to be included in the land use tables of Tweed LEP 2014 (the LEP). Filming could however be approved as a temporary land use under clause 2.8 'Temporary use of land' of the LEP. I note that Council has specified a maximum of 52 days in a calendar year for which temporary uses can be approved under Tweed LEP, and this is insufficient to cater for the filming activities proposed.

To resolve this matter permanently, Council could consider under taking a planning proposal to amend clause 2.8 of the LEP to extend the time frame for which temporary uses of land can be undertaken or to remove any specific maximum time limit for filming activities. Staff from the Department's Northern Region office would be happy to assist Council to help facilitate this change as quickly as possible.

In the interim, I would recommend that Council explore whether the current 52 day maximum limit in clause 2.8 of the LEP could be varied for a specific development application by using clause 4.6 of the LEP. This would allow any imminent proposal to proceed should it receive Council support.

The Department will also need to consider the issue further to determine whether an amendment to the SEPP is warranted. If this was to progress, it would be part of a future review and may not be for some time.

Should you have any further enquiries on this matter, please do not hesitate in contacting Mr Craig Diss, Acting Director Regions, Northern, at the Department on (02) 6641 6600.

Yours sincerely



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**

02/06/2016

## LEP practice note

### PLANNING SYSTEM

#### Local Planning

|                |                                                         |
|----------------|---------------------------------------------------------|
| <b>Ref No.</b> | PN 11-003                                               |
| <b>Issued</b>  | 10 March 2011 (supersedes and <b>replaces</b> PN06-003) |
| <b>Related</b> | LEP PN 11-001; 11-002; PS 11-011                        |

# Preparing LEPs using the Standard Instrument: definitions

The purpose of this practice note is to provide a general overview of the definitions used in the Standard Instrument (Local Environmental Plans) Order 2006 after the 2011 amendments. It should be noted that the explanatory material set out in this practice note is for information purposes only and does not comprise a legal interpretation of any of the definitions in the Standard Instrument.

## Introduction

The Standard Instrument for preparing local environmental plans (LEPs) includes a Dictionary of standard definitions relating to land uses and other terms relevant to the interpretation and application of LEPs.

This means that all LEPs across NSW will soon use the same planning language, including the same definitions for developments such as 'business premises', 'industry' and 'shops'.

The Dictionary is a mandatory provision and will be included in its entirety in all LEPs. To maintain consistency in planning language across the State, councils are not able to alter the standard definitions or directly add definitions to the Dictionary.

Definitions are divided into terms that describe land uses or activities that may be included in Land Use Tables ('land use terms'), and 'explanatory terms' which describe technical, administrative or other land uses that are important to the interpretation of LEPs, but which are not to be included in the Land Use Tables.

However all definitions will appear together in alphabetical order as part of a single Dictionary in each council's LEP.

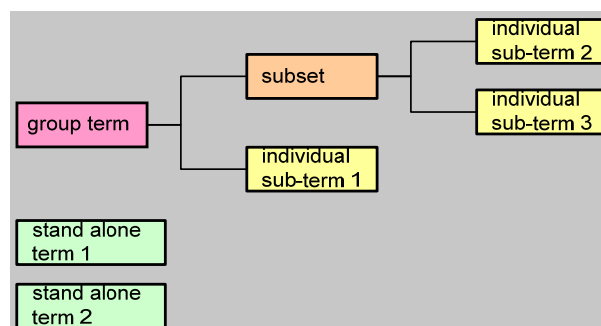
## Land use terms

Approximately half of the standard definitions can be included in the Land Use Table, e.g. 'dwelling house,' 'restaurant or café,' 'hospital' and 'horticulture.' These are the terms used to describe development that is permitted or prohibited in the different zones used by councils.

Direction 5 of the Land Use Table contains a list of all types of development ('land use terms') that can be included in Land Use Tables. For ease of reference, this list is included in Attachment 1 of this practice note.

## Group terms

The Dictionary includes a number of 'groups' of land use terms that are broadly related by type of use.



These land uses are included in a 'group term' definition. The intent of these 'group terms' is to minimise the length of Land Use Tables by

enabling LEP Land Use Tables or other provisions to easily refer to a number of land uses without needing to list them individually.

Each group term definition lists the uses it covers (and in some instances, uses it does not cover). For example:

**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.

For example if the term 'industry' is used in the Land Use Tables, it includes 'general industry', 'heavy industry' and 'light industry'. If the term 'rural industry' is used, it includes all types of rural industrial land uses, avoiding the need to specifically list 'agricultural produce industry', 'livestock processing industry', 'sawmill or log processing works' etc.

Group terms are as follows:

- agriculture
- air transport facility
- commercial premises
- educational establishment
- health services facility
- heavy industrial storage premises
- industry
- residential accommodation
- rural industry
- sewerage system
- signage
- storage premises
- tourist and visitor accommodation
- waste or resource management facility
- water supply system.

Some defined land uses need to be read in the context of the group term to understand their full meaning. For example, a 'market' falls under the group term 'retail premises' as it specifically refers to that term in its notation:

**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.** A market is a type of retail premises (see the definition of that term in this Dictionary).

Retail premises are in turn defined as:

**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) bulky goods premises,
  - (b) cellar door premises,
  - (c) food and drink premises,
  - (d) garden centres,
  - (e) hardware and building supplies,
  - (f) kiosks,
  - (g) landscaping material supplies,
  - (h) markets,
  - (i) plant nurseries,
  - (j) roadside stalls,
  - (k) rural supplies,
  - (l) shops,
  - (m) timber yards,
  - (n) vehicle sales or hire premises,
- but does not include a highway service centre, service station, industrial retail outlet or restricted premises.

**Note.** Retail premises are a type of commercial premises (see the definition of that term in this Dictionary).

Therefore, to be defined as a 'market,' the proposal must satisfy the criteria in *both* definitions. This ensures that there is consistency in definitions relating to retail land uses, and avoids the need for repetition in each of the defined individual retail terms.

Some group terms also contain one or more 'subset terms' that themselves cover other defined land use terms. For example, the term 'food and drink premises' (which falls under the group term 'commercial premises' and its subset 'retail premises') includes the defined terms 'restaurant or cafes', 'take away food and drink premises' and 'pub':

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food premises,
- (c) a pub.

**Note.** Food and drink premises are a type of retail premises (see the definition of that term in this Dictionary).

Attached for information purposes are diagrams that show the general relationships between land use terms associated with each group term (Attachment 2). These diagrams are not a legal

interpretation of the definitions, but rather an information tool to assist council planners in developing their LEPs. The exact definition in the Standard Instrument must always be used when interpreting any defined term.

### Group terms and Clause 2.3(3)

Clause 2.3(3) of the Standard Instrument states that, with respect to the Land Use Table for zones:

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

Councils should also be aware that this provision relates only to types of buildings or things that are specifically referred to in the Land Use Table **in the same zone**. It means that a group term may cover a different range of land uses from zone to zone.

Councils should be mindful that this provision cannot be used to vary the mandated land uses. For example, where 'tourist and visitor accommodation' is mandated as permitted with consent in a zone, an LEP cannot list any component of the group term e.g. 'serviced apartments' as prohibited development in that zone.

### Using terms to make zones 'open' or 'closed'

An **open zone** is one where a broad variety of land use can be considered allowing greater flexibility and minimizing the need to undertake 'spot rezonings'.

A **closed zone** is one where the diversity of land uses is more restrictive, meaning development types are chosen primarily from only one or two key 'group' terms.

See LEP PN 11-002 *Preparing LEPs using the Standard Instrument: standard zones* for further information on which zones should generally be open and which should be closed.

### Ancillary uses

A use is ancillary to another use if it is incidental or subservient. If a use is ancillary, then it is to be characterised as being for the dominant purpose.

Some definitions refer to examples of ancillary services or facilities to assist readers. For instance, the definition of 'service station' refers to the ancillary sale by retail of spare parts and accessories for motor vehicles.

Ancillary uses don't need to be separately included in the Land Use Table.

## Terms not to be used in Land Use Tables

The Standard Instrument contains a number of miscellaneous terms that are essential to the operation and clarity of the Standard Instrument and LEPs. These terms are not to be used in Land Use Tables. These include:

- administrative terms (e.g. 'the Act')
- environmental and hazard terms (e.g. 'biodiversity' and 'bush fire prone land')
- heritage terms (e.g. 'heritage conservation area')
- maps (e.g. 'Land Application Map')
- measurement terms (e.g. 'building height')
- waterways (e.g. 'coastal lake'), and
- other miscellaneous terms to assist in interpretation of clauses or land use definitions (e.g. 'affordable housing' and 'basement').
- Certain SEPP terms (e.g. 'canal estate development').

For information purposes, a list of these terms is set out in Attachment 3.

## Terms not defined in the Dictionary

Many terms used in the Standard Instrument are not separately defined in the Dictionary. In these cases, the ordinary meaning of the word is to be used, which can usually be ascertained by referring to the Macquarie Dictionary.

Some definitions also refer to land uses that are not specifically defined. For example, the definition of an 'information and education facility' refers to 'library', 'art gallery' and 'museum' which are not defined in the Dictionary. These terms have their common meanings, and are included to clarify beyond doubt that these activities are a form of 'information and education facility'.

## Terms requiring "inserted" information

A small number of definitions require councils to insert information such as the name of the local government area. Examples include the definitions of 'Heritage Map' and 'Lot Size Map'. Councils are to replace the words in [*bracketed italics*] with the relevant information.

## Additional standard definitions

To maintain consistency across the State, LEPs may not alter the standard definitions or directly add definitions to the Dictionary. However councils may suggest new terms to the Department of Planning to be included in the Dictionary for all councils to use. The reasons why a definition is required should be clearly articulated.

If there is sufficient justification that the existing standard definitions will not adequately address a particular matter and that the common dictionary meaning of the word is insufficient, the definition may be added in a future amendment to the Standard Instrument. Until the term is added to the dictionary, it cannot be included in the Land Use Tables.

### Defining terms in local provisions

If a council considers it desirable to clarify the interpretation of a term (other than a term defined in the Dictionary) that is used in a local provision by including a specific definition, then the council should discuss the matter with the Department as part of the preliminary discussions on the draft plan.

Depending on the circumstances, it may be considered appropriate to define a term within the locally prepared clause. However, in most instances it will usually be possible to draft a local provision using common language terms. Terms in the Dictionary are not affected by local provision definitions.

### Key changes in the 2011 Amendments

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. 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.

Key changes to dictionary terms are identified in Attachment 4. These include:

#### Commercial related terms

- **commercial premises** is a new group term including 'retail,' 'office' and 'business premises.' This provides an efficient term to describe the mix of uses in centres;
- **retail premises** has now been amended to specifically list retail premises including 'bulky goods premises,' 'cellar door premises,' 'food and drink premises,' 'garden centres,' 'hardware and building supplies,' 'kiosks,' 'landscaping material supplies,' 'markets,' 'plant nurseries,' 'roadside stalls,' 'rural supplies,' 'shops,' 'timber yards' and 'vehicle sales or hire premises';
- **shop** now refers to the broader term 'merchandise' rather than 'general

merchandise,' and the hiring of this merchandise. It also includes a 'neighbourhood shop';

- **neighbourhood shop** has been amended to clarify that general (as opposed to specialist) merchandise can be sold where this provides for the day-to-day needs of people in the area. It is also confirmed as a type of 'shop.'

#### Landscaping related terms

New terms have been introduced to separate components previously covered in the old definition '*landscape and garden supplies*.' This enables uses to be considered individually in different zones providing more flexibility for councils and proponents.

- **garden centre** covers the sale of plants, garden and landscaping supplies and equipment. It also includes ancillary uses such as a 'restaurant or café,' and the sale of fresh produce, pets and pet supplies, outdoor furniture and furnishings, barbeques, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas;
- **plant nursery** covers the growing and retail sale of plants (whether or not also by wholesale), and may also include the sale of landscaping supplies and equipment and storage of these items;
- **horticulture** covers the growing and wholesaling of plants for gardens or landscaping;
- **landscaping material supplies** covers the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

#### Building related terms

The previous '*timber and building supplies*' definition has been split in two. This enables more flexibility in the location of timber yards and hardware shops.

- **hardware and building supplies** covers 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;
- **timber yard** is a stand alone land use enabling councils to consider permitting it in certain industrial or other zones if suited. It covers the sale of 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. It is a 'retail premises';
- **sawmill or log processing works** covers the handling, cutting, chipping, pulping or otherwise processing of logs, baulks, branches or stumps, principally derived from surrounding

districts, into timber or other products derived from wood. It is a 'rural industry.'

### Industry related terms

To provide greater certainty, there was a need to clarify the different types of 'industry.' The previous definition of '*industry*' which defined the processes and activities undertaken by any industry has now been redefined as the interpretative term ***industrial activity***.

'Industry' is now a group term with 'general industry' introduced to describe industry which is not a 'light industry' or 'heavy industry.' The following changes have been made to the industry related terms:

- ***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';
- ***general industry*** is to be used for industrial uses that aren't considered to be 'light' or 'heavy industry';
- ***light industry*** now includes 'high technology industry' and 'home industries';
- ***industrial training facility*** provides for vocational training associated with 'industry', 'rural industry', 'extractive industry' and 'mining';
- ***industrial retail outlet*** provides for display and sale of goods manufactured on site including 'industries' and 'rural industries'.

### Further information

A copy of this practice note, the Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the Department's website

<http://www.planning.nsw.gov.au/LocalPlanning/tabid/246/language/en-US/Default.aspx>

An updated version of the standard instrument is available on the NSW Parliamentary Counsel's office website: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) under 'Browse A-Z In Force'.

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au).

### List of attachments

Attachment 1 – Direction 5 of the Land Use Table  
Attachment 2 – General relationship between land use terms  
Attachment 3 – Defined terms not to be used in Land Use Table  
Attachment 4 – Key changes to dictionary terms made through the SI Amendment Order 2011

### Authorised by:

**Sam Haddad**  
**Director General**

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Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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## ATTACHMENT 1:

### Direction 5 of the Land Use Table

Only the following types of development may be included in the Land Use Table:

Advertising structures; Agricultural produce industries; Agriculture; Air transport facilities; Airports; Airstrips; Amusement centres; Animal boarding or training establishments; Aquaculture; Attached dwellings

Backpackers' accommodation; Bed and breakfast accommodation; Bee keeping; Biosolids treatment facilities; Boarding houses; Boat launching ramps; Boat building and repair facilities; Boat sheds; Building identification signs; Bulky goods premises; Business identification signs; Business premises

Camping grounds; Car parks; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Crematoria

Dairies (pasture-based); Dairies (restricted); Depots; Dual occupancies; Dual occupancies (attached); Dual occupancies (detached); Dwelling houses

Eco-tourist facilities; Educational establishments; Electricity generating works; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extensive agriculture; Extractive industries

Farm buildings; Farm stay accommodation; Feedlots; Flood mitigation works; Food and drink premises; Forestry; Freight transport facilities; Function centres; Funeral homes

Garden centres; General industries; Group homes; Group homes (permanent) or permanent group homes; Group homes (transitional) or transitional group homes

Hardware and building supplies; Hazardous industries; Hazardous storage establishments; Health consulting rooms; Health services facilities; Heavy industrial storage establishments; Heavy industries; Helipads; Heliports; High technology industries; Highway service centres; Home-based child care; Home businesses; Home industries; Home occupations; Home occupations (sex services); Horticulture; Hospitals; Hostels; Hotel or motel accommodation

Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture

Jetties

Kiosks

Landscaping material supplies; Light industries; Liquid fuel depots; Livestock processing industries

Marinas; Markets; Medical centres; Mooring pens; Moorings; Mortuaries; Multi dwelling housing

Neighbourhood shops

Offensive industries; Offensive storage establishments; Office premises; Open cut mining

Passenger transport facilities; Places of public worship; Plant nurseries; Port facilities; Public administration buildings; Pubs

Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Residential care facilities; Residential flat buildings; Resource recovery facilities; Respite day care centres; Restaurants or cafes; Restricted premises; Retail premises; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings

Sawmill or log processing works; Schools; Secondary dwellings; Self-storage units; Semi-detached dwellings; Seniors housing; Service stations; Serviced apartments; Sewage reticulation systems; Sewage treatment plants; Sewerage systems; Sex services premises; Shops; Shop top housing; Signage; Stock and sale yards; Storage premises

Take away food and drink premises; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Turf farming

Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Viticulture

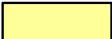
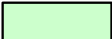
Warehouse or distribution centres; Waste disposal facilities; Waste or resource management facilities; Waste or resource transfer stations; Water recreation structures; Water recycling facilities; Water reticulation systems; Water storage facilities; Water supply systems; Water treatment facilities; Wharf or boating facilities; Wholesale supplies

## ATTACHMENT 2:

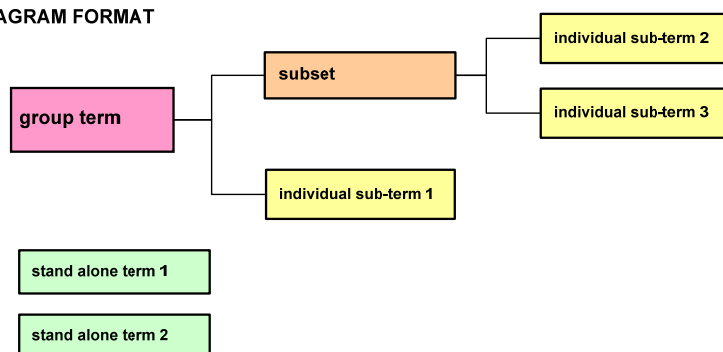
### General relationship between land use terms

| INDEX:                                      | Page   |
|---------------------------------------------|--------|
| agriculture.....                            | 9      |
| air transport facility.....                 | 17     |
| commercial premises.....                    | 12, 13 |
| educational establishment .....             | 18     |
| health services facility.....               | 18     |
| heavy industrial storage premises .....     | 15     |
| industry.....                               | 14     |
| residential accommodation.....              | 10     |
| rural industry.....                         | 14     |
| sewerage system.....                        | 16     |
| signage.....                                | 19     |
| storage premises .....                      | 15     |
| tourist and visitor accommodation.....      | 11     |
| waste or resource management facility. .... | 16     |
| water supply system.....                    | 16     |

#### LEGEND

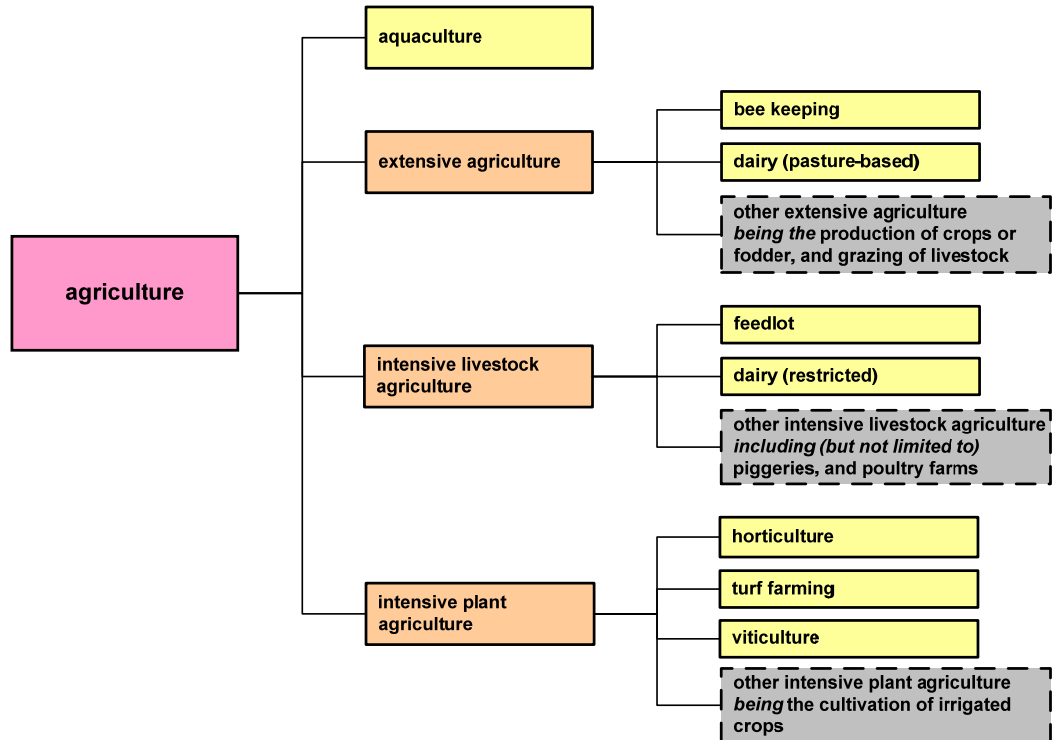
-  Group term that covers a range of land uses.
-  Subset of a group term.
-  A defined land use which **falls under** a group term (and its subset if applicable). It has the same permissibility as the group term unless it is nominated separately in the land use table. See clause 2.3(3)(b) of the SI.
-  A defined land use which **falls outside** any group terms.
-  An **undefined** land use which falls under a group term (and its subset if applicable). Because it is not defined, it cannot be nominated separately in the land use table.
-  Solid line indicates a general relationship between linked terms.
-  Other related term (**not** to be used in land use tables)

#### DIAGRAM FORMAT



# AGRICULTURE

**LAND USE** terms **WITHIN** **agriculture** group term:



## LAND USE terms OUTSIDE agriculture group term

Examples:

animal boarding or  
training establishment

farm building

forestry

Any sub-terms **WITHIN** **residential  
accommodation** group term:

Examples:

rural worker's dwelling

Any sub-terms **WITHIN** **tourist and  
visitor accommodation** group term:

Examples:

farm stay accommodation

Any sub-terms **WITHIN** **commercial premises**  
group term:

Examples:

cellar door premises

roadside stall

Any sub-terms **WITHIN** **rural industry** group term:

Examples:

agricultural produce  
industry

livestock processing  
industry

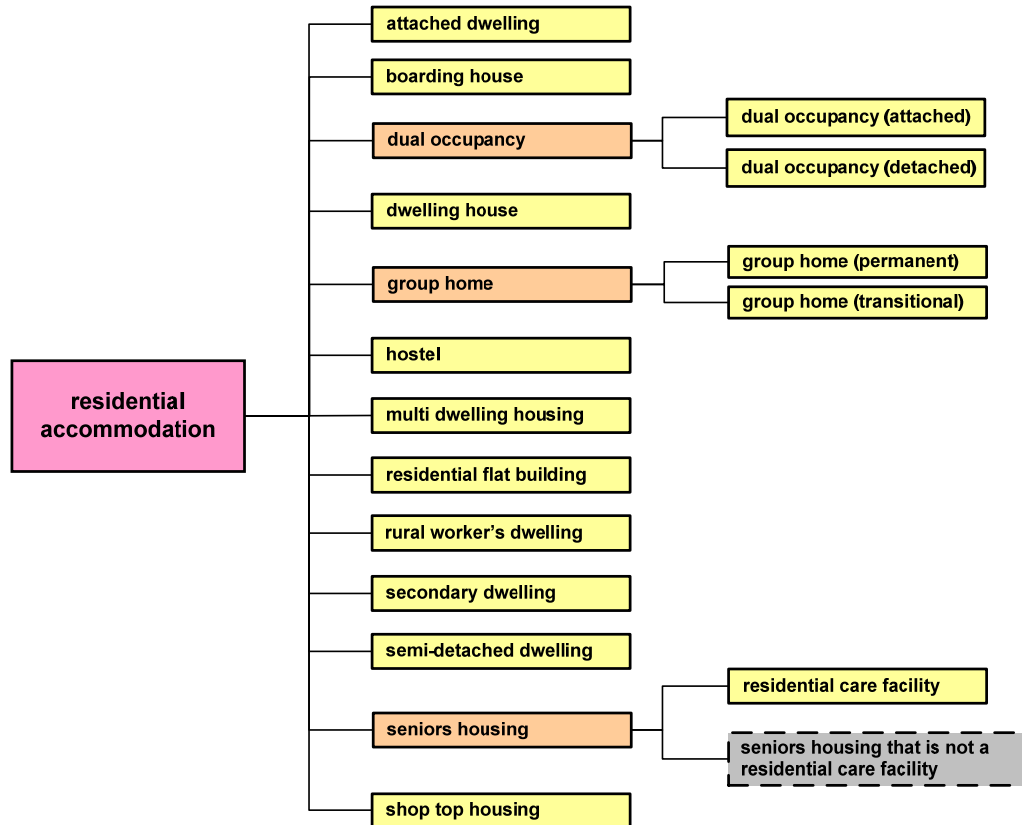
Other related terms **NOT** to be used in **LAND USE TABLES**

Examples:

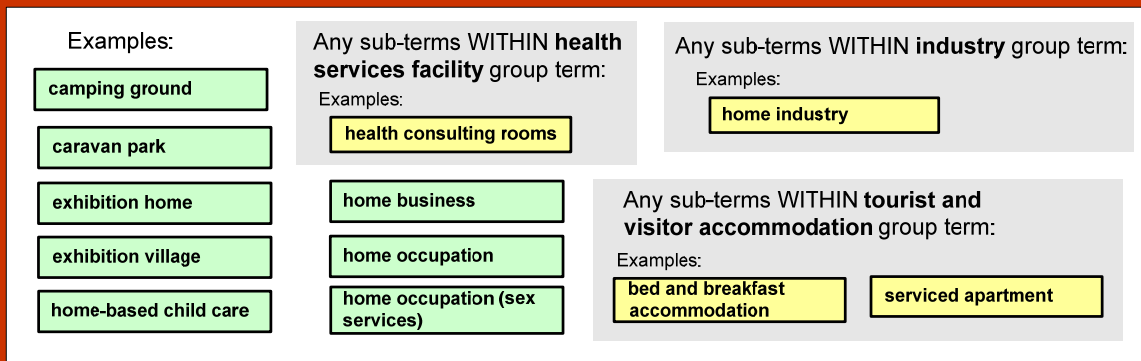
restriction facilities

# RESIDENTIAL ACCOMMODATION

**LAND USE** terms WITHIN **residential accommodation** group term:



## LAND USE terms OUTSIDE **residential accommodation** group term

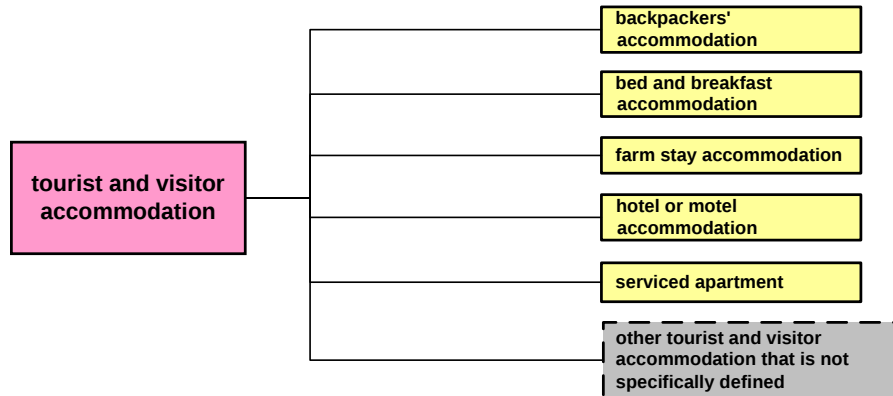


## Other related terms NOT to be used in LAND USE TABLES



# TOURIST AND VISITOR ACCOMMODATION

**LAND USE** terms WITHIN **tourist and visitor accommodation** group term:



**LAND USE** terms OUTSIDE **tourist and visitor accommodation** group term

Examples:

camping ground

caravan park

eco-tourist facility

Any sub-terms WITHIN **residential accommodation** group term:

Examples:

boarding house

residential flat building

dwelling house

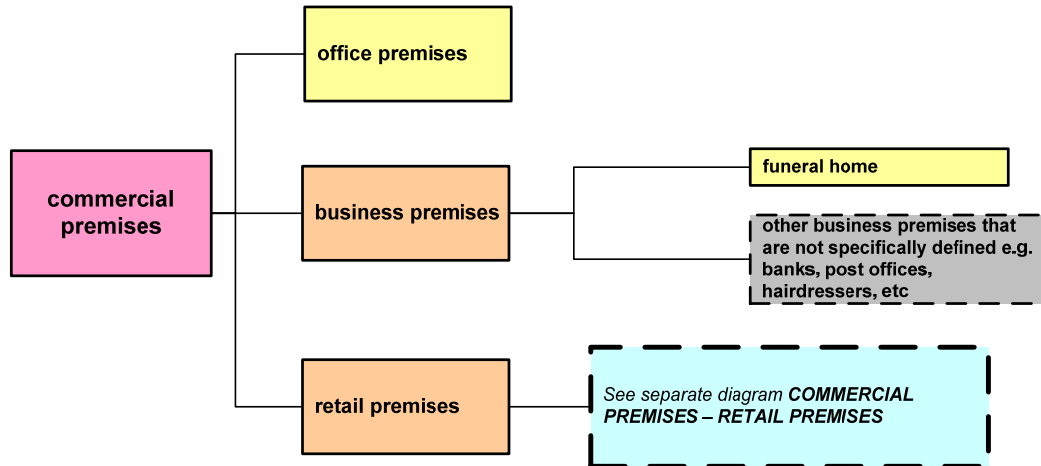
Other related terms NOT to be used in LAND USE TABLES

Examples:

mixed use development

# COMMERCIAL PREMISES

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



## LAND USE terms OUTSIDE commercial premises group term

Examples:

amusement centre

animal boarding or training establishments

boat building or repair facility

entertainment facility

function centre

highway service centre

home-based child care

home business

home occupation

home occupation (sex services)

industrial retail outlet

industrial training facility

registered club

restricted premises

service station

sex services premises

vehicle body repair workshop

vehicle repair station

veterinary hospital

wholesale supplies

Any sub-terms WITHIN **health services facility** group term:

Examples:

medical centre

health consulting rooms

Other related terms NOT to be used in LAND USE TABLES

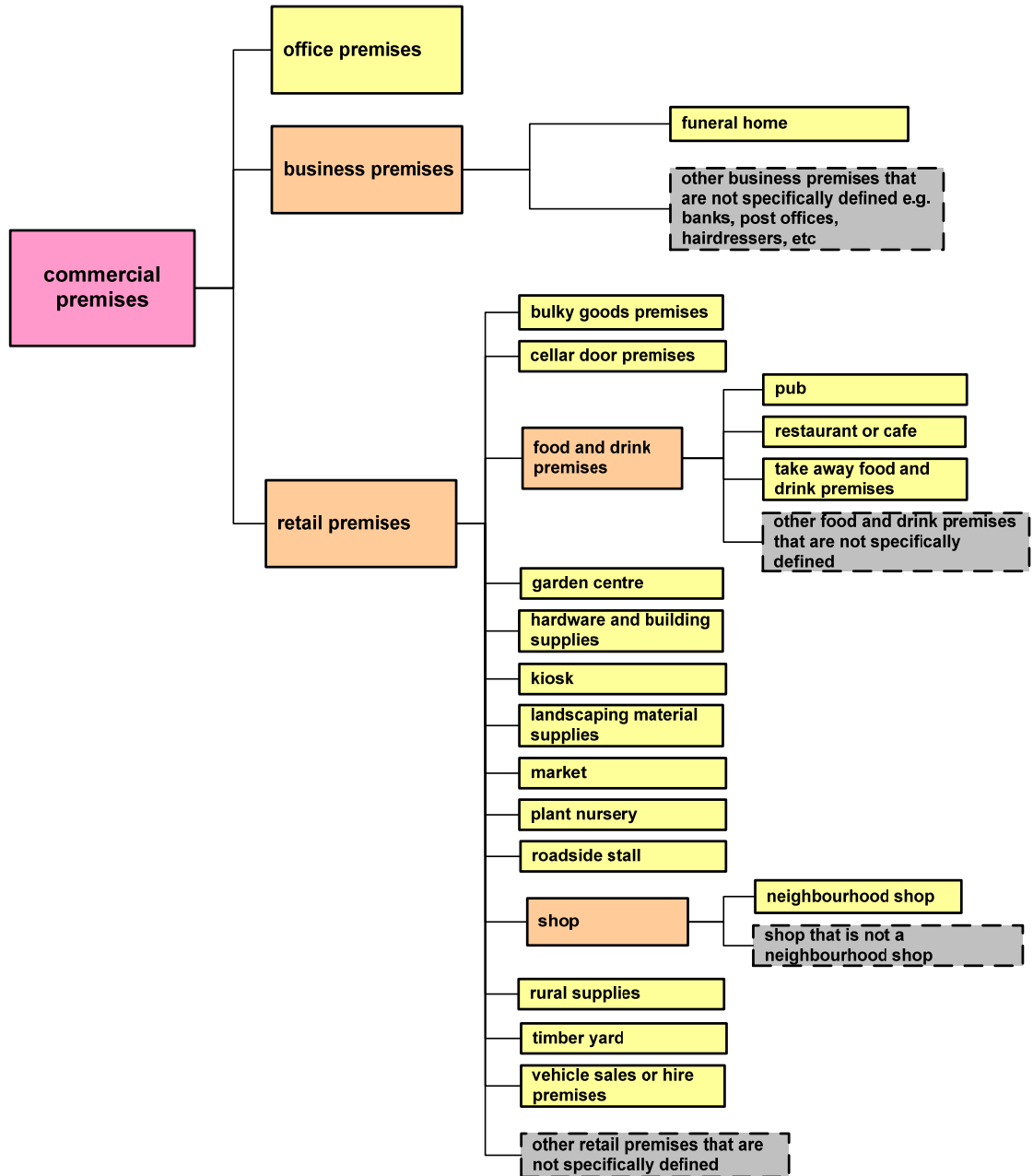
Examples:

brothel

mixed use development

# COMMERCIAL PREMISES – RETAIL

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



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

Examples:

highway service centre

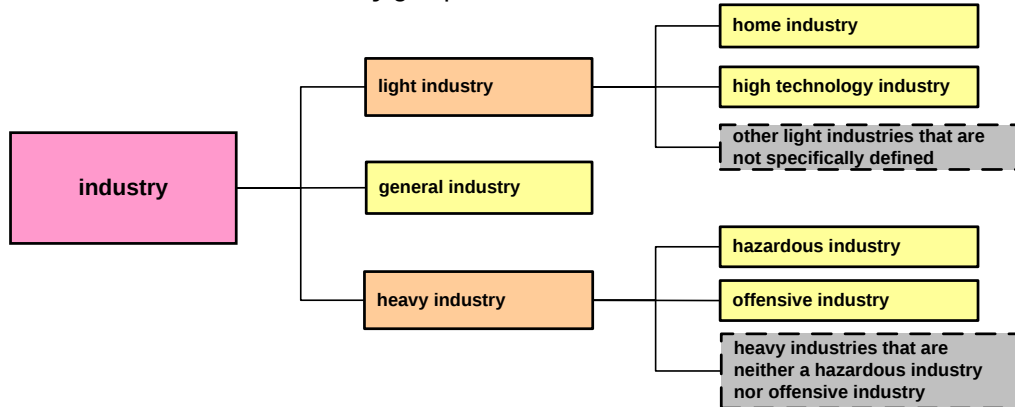
industrial retail outlet

restricted premises

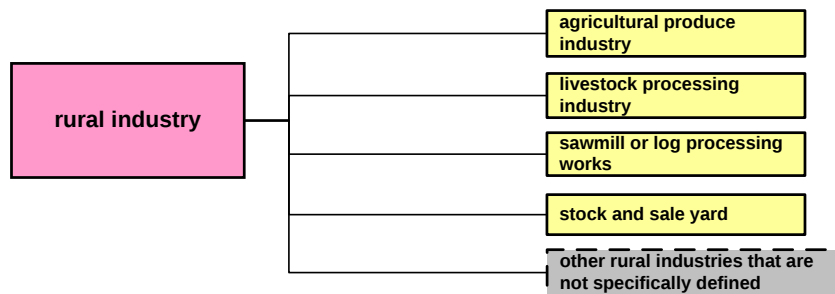
service station

# INDUSTRY & RURAL INDUSTRY

**LAND USE** terms WITHIN **industry** group term:

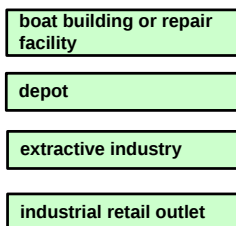


**LAND USE** terms WITHIN **rural industry** group term:



## LAND USE terms OUTSIDE BOTH **industry** & **rural industry** group terms

Examples:



warehouse or distribution centre

wholesale supplies

Miscellaneous **related** group term:

Examples:

storage premises

heavy industrial storage establishment

Other related terms NOT to be used in LAND USE TABLES

Examples:

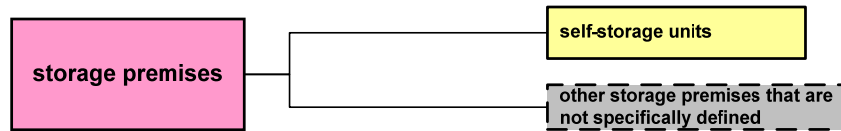
industrial activity

mining

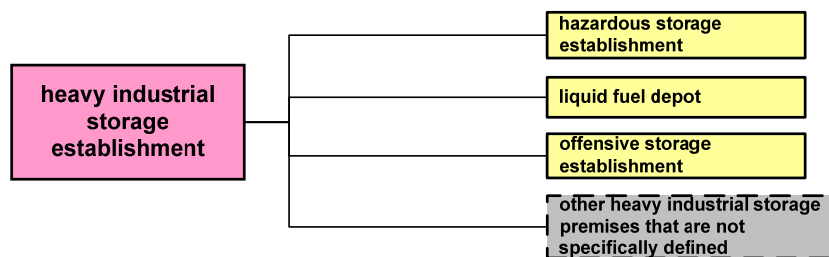
underground mining

# STORAGE LAND USES

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

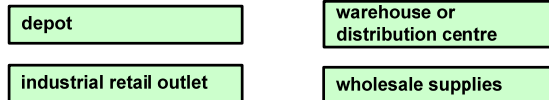


**LAND USE** terms WITHIN **heavy industrial storage establishment** group term:



**LAND USE** terms OUTSIDE BOTH **storage premises** & **heavy industrial storage establishment** group terms

Examples:



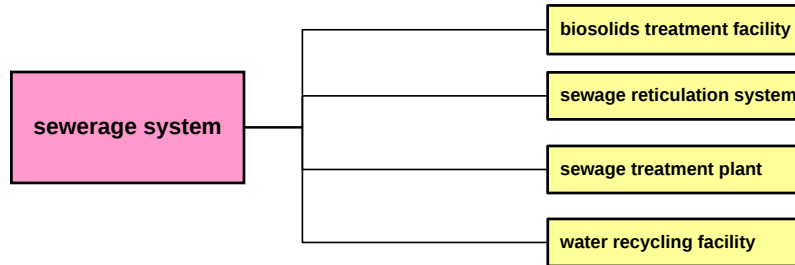
Miscellaneous related group term:

Examples only:

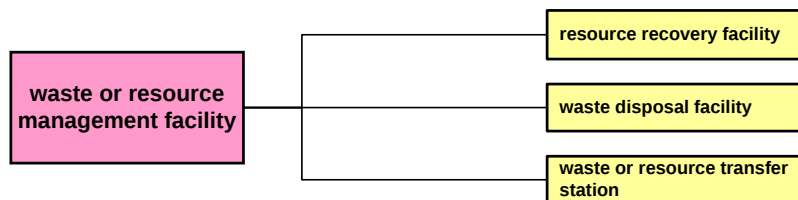


# INFRASTRUCTURE – WATER & WASTE

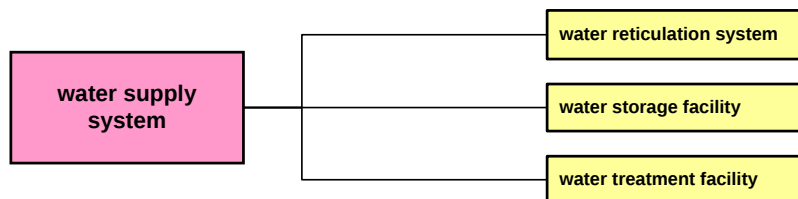
**LAND USE** terms WITHIN **sewerage system** group term:



**LAND USE** terms WITHIN **waste or resource management facility** group term:



**LAND USE** terms WITHIN **water supply system** group term:



## Other **LAND USE** terms relating to public utility infrastructure

Examples:

electricity generating works

## Other related terms NOT to be used in **LAND USE** TABLES

Examples:

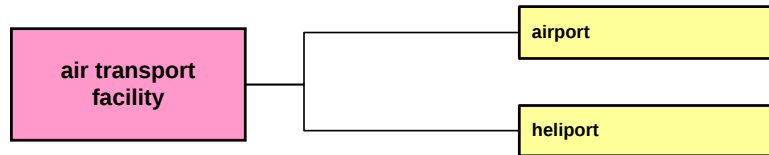
public utility undertaking

telecommunications facility

telecommunications network

# INFRASTRUCTURE – TRANSPORT

**LAND USE** terms WITHIN **air transport facility** group term:



**LAND USE** terms OUTSIDE **air transport facility** group term

Examples:

airstrip

helipad

Other **LAND USE** terms relating to transport infrastructure

Examples:

boat shed

passenger transport facility

transport depot

car park

port facilities

truck depot

freight transport facility

road

wharf or boating facilities

Other related terms NOT to be used in LAND USE TABLES

Examples:

classified road

navigable waterway

waterbody (artificial)

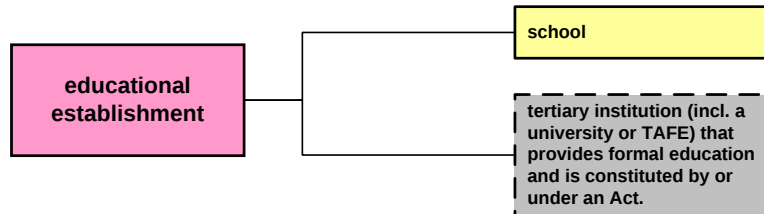
parking space

public utility undertaking

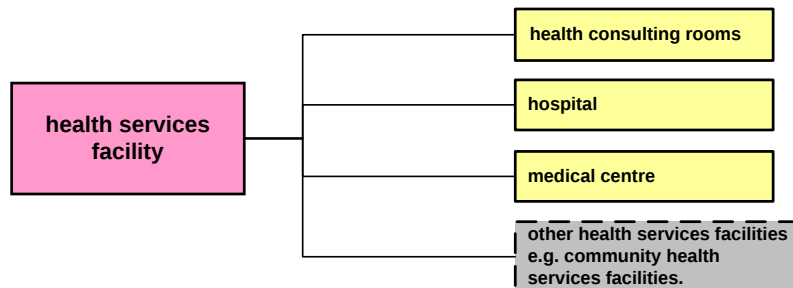
waterway

# INFRASTRUCTURE – COMMUNITY

**LAND USE** terms WITHIN **educational establishment** group term:



**LAND USE** terms WITHIN **health services facility** group term:



## Other **LAND USE** terms relating to community infrastructure

Examples:

child care centre

home-based child care

public administration building

community facility

industrial training facility

research station

correctional centre

information and education facility

respite day care centre

emergency services facility

places of public worship

## Other related terms NOT to be used in **LAND USE** TABLES

Examples:

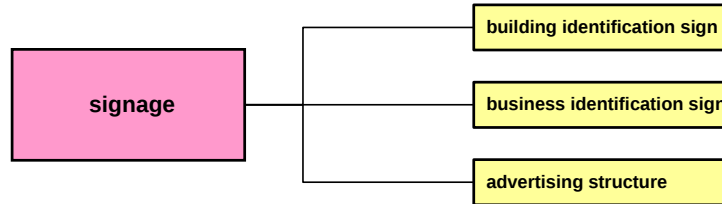
clearing native vegetation

community land

public reserve

## OTHER MISCELLANEOUS LAND USES

**LAND USE** terms WITHIN **signage** group term:



### LAND USE terms relating to recreation

Examples:

boat launching ramp

jetty

recreation area

water recreation structure

boat shed

marina

recreation facility (indoor)

charter and tourism boating facility

mooring

recreation facility (major)

environmental facility

mooring pen

recreation facility (outdoor)

### Other miscellaneous LAND USE terms

Examples:

cemetery

environmental protection works

mortuary

crematorium

flood mitigation works

### Other related terms NOT to be used in LAND USE TABLES

Examples:

advertisement

coastal protection works

earthworks

waterbody (artificial)

clearing native vegetation

drainage

ecologically sustainable development

## ATTACHMENT 3:

### Defined terms not to be used in Land Use Tables

#### Administrative terms

Council  
community land  
Crown reserve  
operational land  
public authority  
public land  
public reserve  
the Act

#### Environment and hazards

acid sulfate soils  
Acid Sulfate Soils Manual  
biodiversity  
biological diversity  
bush fire hazard reduction work  
bush fire prone land  
bush fire risk management plan  
catchment action plan  
clearing native vegetation  
ecologically sustainable development  
extractive material  
fish  
mine subsidence district  
native fauna  
native flora  
native vegetation  
property vegetation plan

#### Heritage

Aboriginal object  
Aboriginal place of heritage significance  
archaeological site  
curtilage (in relation to heritage)  
demolish (in relation to heritage)  
heritage conservation area  
heritage conservation management plan  
heritage impact statement  
heritage item  
heritage management document  
heritage significance  
maintenance (in relation to heritage)  
nominated State heritage item  
relic

#### Maps

Floor Space Ratio Map  
Height of Buildings Map  
Heritage Map  
Land Application Map  
Land Reservation Acquisition Map  
Land Zoning Map

Lot Size Map

#### Measurement

building height  
building line or setback  
floor space ratio  
gross floor area  
ground level (existing)  
ground level (finished)  
ground level (mean)  
Reduced Level (RL)  
site area  
site coverage  
storey

#### Water and Coastal

coastal foreshore  
coastal hazard  
coastal lake  
coastal protection works  
coastal waters of the State  
coastal zone  
estuary  
headland  
mean high water mark  
navigable waterway  
non-potable water  
NSW Coastal Policy  
potable water  
waterbody  
waterbody (artificial)  
waterbody (natural)  
watercourse  
waterway  
wetland

#### Other terms

advertisement  
affordable housing  
attic  
basement  
brothel  
building  
classified road  
drainage  
dwelling  
earthworks  
emergency services organisation  
excavation  
fill  
filming  
health care professional

industrial activity  
landscaped area  
mezzanine  
mixed use development  
moveable dwelling  
parking space  
private open space  
public utility undertaking  
rainwater tank  
restriction facilities  
sex services  
spa pool  
swimming pool  
temporary structure

### SEPP terms

canal estate development  
mine  
mining  
telecommunications facility  
telecommunications network  
underground mining

**Note.** These types of development are regulated by State Environmental Planning Policies.

## 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 grown 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;

- **commercial premises** is a new group term including *retail, office and business premises*;
- **crematorium** clarifies it could contain an associated building for conducting memorial services;
- **dairy (restricted)** has been renamed from restricted dairy in order to cluster related uses in the Dictionary for ease of use. Clarification has also been provided that it is a type of *intensive livestock agriculture*. The term has been renamed wherever it occurs, such as in the definition of *intensive livestock agriculture*;
- **demolish** in relation to heritage matters specifically includes *Aboriginal objects* which previously were considered through the term *heritage item* (now amended);
- **dual occupancy** is a new group term including **dual occupancy (attached)** and **dual occupancy (detached)**. This change confirms that the two types of *dual occupancy* can be separately applied;
- **eco-tourist facility** is a new term that caters for low impact tourist use located in or adjacent to an area with special ecological or cultural features. A number of non-Standard Instrument LEPs contain a similar use;
- **emergency service organisation** is amended to replace *New South Wales Fire Brigades* with *Fire and Rescue NSW* to reflect the change in name of the emergency service organisation. Note that the change in name will also occur in *Clause 5.8 Conversion of Fire Alarms*;
- **extensive agriculture** now has the addition of *dairy (pasture-based)* in its grouping;
- **feedlot** now includes the addition of 'fibre products';
- **food and drink premises** no longer refers to "milk bar" and references *restaurant and café* which was renamed from *restaurant*;
- **funeral home** has been amended to include facilities for memorial services, removing the need for *funeral chapel*;
- **garden centre, landscaping material supplies** and **plant nursery** are new terms which separate the growing component from supplies and garden centres that were in the superseded definition *landscape and garden supplies*. This enables them to be considered individually in different zones providing more flexibility for councils and proponents;
- **general industry** is to be used for industrial uses that are not considered to be light or heavy industry;
- **hardware and building supplies** is a renamed and amended term based on the previous *timber and building supplies* definition. **timber yards** is a stand alone land use enabling councils to consider permitting it in certain industrial or other zones if suited;
- **health consulting rooms** has been amended, removing the partnership requirements, and enabling more flexibility by having more than three health care professionals in the practice, provided only three are working at any one time to ensure impacts are in keeping with residential amenity;
- **heavy industrial storage establishment** is a new group term including *hazardous storage establishments, offensive storage establishments and liquid fuel depots*;
- **heritage conservation area** deletes the reference to *Aboriginal place of heritage significance* as Aboriginal heritage is now dealt with separately;
- **heritage item** has been amended to remove the compulsory nature of having to be identified in three places correctly in order to fulfil the criteria. The key location for heritage items is now Schedule 5, although they may still be mapped. Reference is also made to the council inventory which informed the listing;
- **heritage management document** is provided to inform users that there will be more flexibility to determine the level of analysis required to support an application where heritage is involved, and reduce costs to the applicant wherever possible;
- **high technology industry** provides for certain types of established and emerging sectors that rely on technologies that are non-polluting, meaning they may be considered suitable in a variety of zones;
- **home business, home industry, home occupation** and **home occupation (sex services)** now refer to *signage* (other than a *business identification sign* for a *home business*) rather than listing types of signs individually;
- **hospital** is amended to remove the term *refreshment room* and replace it with *kiosks, restaurant or café and take-away food or drink premises*;
- **industrial activity** assists in interpreting industrial related definitions. It explains the processes and activities that constitute an *industry*;
- **industrial retail outlet** now clarifies that the provisions also apply to a *rural industry*;
- **industrial training facility** is a new land use term to cover vocational training in an activity (such as forklift or truck driving) associated

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*;

- ***natural water based aquaculture, pond based aquaculture*** and ***tank-based aquaculture*** have been consolidated under the definition of *aquaculture*;
- ***waste management facility*** is removed as it is included in the definition of *waste and resource management facility*.