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IRF24/952

## Gateway determination report – PP-2024-881

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Introduce exempt development provisions to Schedule 2 of the Gwydir Local Environmental Plan 2013

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

## Contents

<b>1</b>	<b>Planning proposal</b>	<b>1</b>
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area	3
1.5	Mapping	6
<b>2</b>	<b>Need for the planning proposal</b>	<b>6</b>
<b>3</b>	<b>Strategic assessment</b>	<b>14</b>
3.1	Regional Plan	14
3.2	Local	14
3.3	Section 9.1 Ministerial Directions	15
3.4	State environmental planning policies (SEPPs)	19
<b>4</b>	<b>Site-specific assessment</b>	<b>19</b>
4.1	Environmental	19
4.2	Social and economic	20
4.3	Infrastructure	20
<b>5</b>	<b>Consultation</b>	<b>21</b>
5.1	Community	21
5.2	Agencies	21
<b>6</b>	<b>Timeframe</b>	<b>21</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>21</b>
<b>8</b>	<b>Assessment summary</b>	<b>21</b>
<b>9</b>	<b>Recommendation</b>	<b>22</b>
<b>10</b>	<b>Appendix 1 – Existing and proposed provisions</b>	<b>24</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal – Minor Revisions V2.0 – 13 October 2023
Minutes of Ordinary Meeting – 26 October 2023

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Gwydir</b>
<b>PPA</b>	Gwydir Shire Council
<b>NAME</b>	Introduce exempt development provisions to Schedule 2 of the Gwydir LEP 2013
<b>NUMBER</b>	PP-2024-881
<b>LEP TO BE AMENDED</b>	Gwydir Local Environmental Plan 2013
<b>ADDRESS</b>	Applies to all rural and residential land in the LGA
<b>DESCRIPTION</b>	As above
<b>RECEIVED</b>	30/04/2024
<b>FILE NO.</b>	IRF24/952
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to introduce exempt development provisions for the following exempt development types:

- Balconies, decks, patios, pergolas, terraces and verandahs
- Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses
- Carports
- Change of use of places of public worship
- Driveways and hard stand spaces
- Farm buildings
- Grain silos and grain bunkers
- Fences (certain residential zones and Zone RU5)
- Fuel tanks and gas storage
- Pathways and paving
- Subdivision

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Gwydir LEP 2013 to insert a number of exempt development provisions in Schedule 2 “Exempt Development” of the LEP. The proposed amendments seek to expand upon or modify the existing exempt development provisions contained within Part 2, Division 1 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP).

Clause 1.9 of the Codes SEPP specifies relationships between the Policy and local environmental plans. Specifically, Clause 1.9(1) of the Codes SEPP states that a standard plan does not apply to development that is specified in the plan as exempt development and that is specified in the Codes SEPP as exempt development. In this regard, where the Gwydir LEP 2013 specifies the ‘same development’ specified within the Codes SEPP, the Codes SEPP would prevail to the extent of the inconsistency.

In order for the amendment to take effect, it will be necessary to amend the Codes SEPP as part of the planning proposal. As such, the planning proposal will need to be revised prior to community consultation to articulate that it also comprises an amendment to the Code SEPP so that clause 1.9(1) will not apply. A condition is included on the Gateway determination in this regard. Precisely how the intent of the proposal is implemented will be determined by Parliamentary Counsel.

The intent of the proposed provisions is detailed in Table 3 below.

**Table 3 Explanation of amendments proposed**

Development type	Proposed amendment
Balconies, decks, patios, pergolas, terraces and verandahs	Remove the requirement for a replacement deck to be 1m or less above ground level.  If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.
Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses	Increase the allowable floor area from 50m <sup>2</sup> to 100m <sup>2</sup> on land in Zone RU1, RU2, RU3, RU4, RU6 or R5, and 20m <sup>2</sup> to 50m <sup>2</sup> in any other zone.  If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.
Carports	Include the definition of a carport from clause 1.5(1) of the Codes SEPP within the specified development and delete note referring to separate definitions clause.  Increase the allowable floor area from 50m <sup>2</sup> to 85m <sup>2</sup> for a lot larger than 300m <sup>2</sup> in a rural zone or Zone R5.  If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.
Change of use of places of public worship	Allow a change in use of a place of public worship to a place of public assembly, in addition to another place of public worship.
Driveways and hard stand spaces	If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.

Development type	Proposed amendment
Farm buildings (other than stock holding yards, grain silos and grain bunkers)	Remove the maximum building height for a landholding that has an area greater than 200ha. Increase the allowable maximum footprint of all farm buildings and minimum boundary setback for larger properties.
Grain silos and grain bunkers	Allow for grain to be stored that is produced on an adjoining landholding. Increase the maximum footprint of all farm buildings (other than grain bunkers) for larger properties.
Fences (certain residential zones and Zone RU5)	Allow an entrance gate to open outwards if the gate swing is wholly within private land. Remove the requirement for a fence on a primary or secondary road to be partially open. Remove the requirement to limit fencing height to 1.2m along the secondary road frontage.
Fuel tanks and gas storage	Allow for self-bunded or externally bunded tanks.
Pathways and paving	If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.
Subdivision	Allow for boundary adjustments that will not create additional lots or increase the number of lots with a dwelling entitlement “except where all lots are either above the minimum lot size or would not be reduced in area if below the minimum lot size and contain a dwelling”. Replace ‘minor change’ in lot area with a ‘50% change’.

A comparison of the existing and proposed provisions is provided at Appendix 1.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. However, the planning proposal also contains the proposed wording for Schedule 2 which has been prepared by Council.

The objectives and intended outcomes, when read together with the explanation of provisions are used for drafting of an LEP. However, it is considered that inclusion of draft wording in this instance would be beneficial to help the community understand the proposed amendment. As such, it is recommended the proposal is updated to include a disclaimer that the final Schedule 2 wording is subject to drafting by Parliamentary Counsel. A condition is included on the Gateway determination in this regard.

## 1.4 Site description and surrounding area

The proposal applies to land within the Gwydir Shire local government area (Figure 1).



**Figure 1 Gwydir Shire LGA (source: NSW Spatial Viewer)**

The proposal does not seek to amend the zones to which the existing exempt provisions apply. However, the planning proposal does not explain the zones to which the provisions apply.

The following land use zones are currently adopted in the Gwydir LEP 2013:

- Zone RU1 Primary Production
- Zone RU5 Village
- Zone R5 Large Lot Residential
- Zone E4 General Industrial
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation

The proposed exempt development types and corresponding zones are shown below (Table 4).

Table 4 Zones where amendments apply

Development type	Applicable zone
Balconies, decks, patios, pergolas, terraces and verandahs	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>
Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>
Carports	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>
Change of use of places of public worship	<ul style="list-style-type: none"> <li>• Zone RU5 Village</li> </ul>
Driveways and hard stand spaces	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>
Farm buildings (other than stock holding yards, grain silos and grain bunkers)	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> </ul>
Grain silos and grain bunkers	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> </ul>
Fences (certain residential zones and Zone RU5)	<ul style="list-style-type: none"> <li>• Zone RU5 Village</li> </ul>



Development type	Applicable zone
Fuel tanks and gas storage	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> </ul>
Pathways and paving	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>
Subdivision	<ul style="list-style-type: none"> <li>• Zone RU1 Primary Production</li> <li>• Zone RU5 Village</li> <li>• Zone R5 Large Lot Residential</li> <li>• Zone E4 General Industrial</li> <li>• Zone RE1 Public Recreation</li> <li>• Zone RE2 Private Recreation</li> </ul>

The proposal will need to be updated prior to public exhibition to refer to all zones to which the proposal applies. A condition is included on the Gateway determination in this regard.

## 1.5 Mapping

There are no amendments to the Gwydir LEP 2013 maps proposed or required.

## 2 Need for the planning proposal

The planning proposal is a Council initiated proposal which aims to provide a more opportunities for exempt development. Specifically, the planning proposal seeks to:

- reduce the load on the planning assessment team by diverting some low-impact developments to the exempt development category; and
- simplify development approval requirements and facilitate the construction of appropriate rural infrastructure with minimal external impacts.

The proposal will primarily affect residential and rural land in the Gwydir Shire LGA.

An assessment of the proposed changes is provided in Table 5.

**Table 5 Assessment of amendments proposed**

Development type	Proposed amendment	Department assessment	Proceed
Balconies, decks, patios, pergolas, terraces and verandahs	<p>Remove the requirement for a replacement deck to be 1m or less above ground level.</p> <p>If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.</p>	<p>The amendments will allow for the like for like replacement of an existing deck, regardless of height. However, it is recommended that the proposal is updated to clarify any replacement deck is the same height as existing to minimise potential amenity and visual privacy impacts. A condition is imposed in this regard.</p> <p>The amendments also allow for this type of development where no formal stormwater system exists, which is considered acceptable in a rural setting.</p>	Yes – with conditions
Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses	<p>Increase the allowable floor area from 50m<sup>2</sup> to 100m<sup>2</sup> on land in Zone RU1, RU2, RU3, RU4, RU6 or R5, and 20m<sup>2</sup> to 50m<sup>2</sup> in any other zone.</p> <p>If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.</p>	<p>The amendments will allow for an increase in the allowable floor area for this type of development. Given the amendments will apply in a rural setting, any impacts resulting from an increase in floor area are anticipated to be minimal. The amendments also allow for this type of development where no formal stormwater system exists, which again is considered acceptable in a rural setting.</p>	Yes

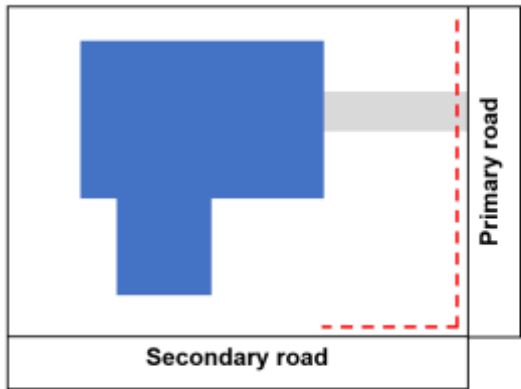
Development type	Proposed amendment	Department assessment	Proceed
Carports	<p>Include the definition of a carport from clause 1.5(1) of the Codes SEPP within the specified development and delete note referring to separate definitions clause.</p> <p>Increase the allowable floor area from 50m<sup>2</sup> to 85m<sup>2</sup> for a lot larger than 300m<sup>2</sup> in a rural zone or Zone R5.</p> <p>If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.</p>	<p>The amendments will allow for an increase in the allowable floor area for this type of development on larger allotments. Given the amendments will apply in a rural setting, any impacts resulting from an increase in floor area are anticipated to be minimal. The amendments also allow for this type of development where no formal stormwater system exists, which is considered acceptable in a rural setting.</p> <p>Council also proposes to introduce the definition of a carport as part of the planning proposal because one exists in the Codes SEPP.</p>	Yes

Development type	Proposed amendment	Department assessment	Proceed
Change of use of places of public worship	Allow a change in use of a place of public worship to a place of public assembly, in addition to another place of public worship.	<p>This amendment seeks to allow for a change in use from a place of public worship to a 'place of public assembly' as exempt development.</p> <p>A 'place of public assembly' is not a Standard Instrument definition. The Gwydir LEP 2013 is a standard instrument LEP.</p> <p>'Place of assembly' is defined in the Environmental Planning and Assessment Model Provisions 1980 as "a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment".</p> <p>This definition covers a number of land uses in the Standard Instrument LEP dictionary, including (but not limited to) 'function centre', 'community facility' and 'entertainment facility'.</p> <p>These land uses would typically require development consent to consider impacts including (but not limited to) traffic, noise, operational details and development contributions.</p> <p>Further, there are additional considerations for Class 9b buildings under the National Construction Code (NCC), which would not be captured under an exempt development pathway.</p> <p>Given it is unclear what types of uses the changes are proposed to facilitate and there is uncertainty in equivalent land uses and resulting impacts, the justification and the potential impact requires further consideration by Council. Therefore, the inclusion of this clause is not supported at the present time and should be removed prior to consultation. A condition is imposed in this regard.</p>	No
Driveways and hard stand spaces	If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.	The amendments will allow for this type of development where no formal stormwater system exists, which is considered acceptable in a rural setting.	Yes

Development type	Proposed amendment	Department assessment	Proceed
Farm buildings (other than stock holding yards, grain silos and grain bunkers)	<p>Remove the maximum building height for a landholding that has an area greater than 200ha.</p> <p>Increase the allowable maximum footprint of all farm buildings and minimum boundary setback for larger properties.</p>	<p>The planning proposal does not specify an upper height limit for farm sheds on a landholding greater than 200ha in area, which could potentially result in adverse environmental and amenity impacts.</p> <p>However, given the land area and that the other environmental and amenity requirements within the clause will continue to apply, any impacts resulting from the removal of the height limit are anticipated to be minimal.</p> <p>The Gwydir LEP 2013 has not adopted a maximum height of building control under Clause 4.3 Height of buildings. In this regard, the proposed amendment will not be inconsistent with the LEP provisions.</p> <p>No issues are raised in relation to the proposed increase to the maximum footprint of all farm buildings or boundary setbacks, given the increases in building footprint are proportionate to the increase in minimum setbacks.</p> <p>95% of the area of the Gwydir Shire LGA is used for agricultural purposes. The proposed amendments to building height and maximum building footprints will assist in increasing the useability of farm buildings, supporting productive land uses without the need for development consent.</p>	Yes – with conditions

Development type	Proposed amendment	Department assessment	Proceed
Grain silos and grain bunkers	<p>Allow for grain to be stored that is produced on an adjoining landholding.</p> <p>Increase the maximum footprint of all farm buildings (other than grain bunkers) for larger properties.</p>	<p>No issues are raised in relation to the proposed increase to the maximum footprint of all farm buildings or boundary setbacks.</p> <p>However, concerns are raised that the storage of grain produced on an adjoining landholding could be characterised as an ‘agricultural produce industry’</p> <p>Rural industries require development consent within the RU1 Primary Production zone and are prohibited within the RU5 Village and R5 Large Lot Residential zones. This land use would require consideration of land use conflict issues, particularly noise and traffic impacts.</p> <p>It is considered that limiting the additional storage of grain to adjoining properties may be difficult for Council to enforce and may lead to unforeseen impacts. Therefore, the inclusion of this clause is not as proposed is not supported at the present time.</p> <p>However, it is considered reasonable for grain to be stored on an adjoining landholding in the event of an emergency, or if the amount of grain exceeds the amount that can be stored on the land on which it was produced (i.e. for purposes of overflow storage).</p> <p>Having regard for the above, it is recommended the proposal be updated to reflect this requirement. A condition is imposed in this regard.</p>	Yes – with conditions

Development type	Proposed amendment	Department assessment	Proceed
<p>Fences (certain residential zones and Zone RU5)</p>	<p>Allow an entrance gate to open outwards if the gate swing is wholly within private land.</p> <p>Remove the requirement for a fence on a primary or secondary road to be partially open.</p> <p>Remove the requirement to limit fencing height to 1.2m along the secondary road frontage.</p>	<p>No issues are raised in relation to the proposed gate swing requirements.</p> <p>The proposal seeks to remove the fence opening requirements for fences located along the boundary of, or within the setback area to, a primary or secondary road. The proposal states that the existing wording would preclude the construction of a brick fence, despite it earlier being permitted in clause 2.34(1)(b). No objection is raised to the changes, subject to community consultation.</p> <p>The proposal also seeks to only require a maximum fence height of 1.2m in front of the building line to the primary frontage, where the lot has frontage to a secondary road. It is considered allowing a reduced fence height to the front of the building line along the primary frontage is an acceptable outcome for streetscape and surveillance whilst maintaining privacy. The proposed changes are depicted in the diagram below (Figure 2):</p>	<p>Yes – with conditions</p>



----- 1.2m height limit

**Figure 2 Fence height**

Subclause (4) should be removed from the clause as it references subclause (2)(b), which is proposed by Council to be deleted. A condition is imposed in this regard.

Development type	Proposed amendment	Department assessment	Proceed
Fuel tanks and gas storage	Allow for self-bunded or externally bunded tanks.	<p>These amendments seek to allow for either self-bunded or externally bunded fuel tanks and gas storage.</p> <p>The current wording of the clause in the Codes SEPP only requires the tank to 'be bunded'. Self-bunded tanks are considered to be bunded for the purposes of this clause. In this regard, the proposed amendments are not considered necessary, and it is recommended these changes are removed from the proposal. A condition is imposed in this regard.</p>	No
Pathways and paving	If no stormwater drainage system exists, allow for roofwater to be disposed of in a manner that does not increase overland flow outside the boundaries of the property.	The amendments will allow for this type of development where no formal stormwater system exists, which is considered acceptable in a rural setting.	Yes
Subdivision	<p>Allow for boundary adjustments that will not create additional lots or increase the number of lots with a dwelling entitlement "except where all lots are either above the minimum lot size, or would not be reduced in area if below the minimum lot size and contain a dwelling".</p> <p>Replace 'minor change' in lot area with a '50% change'.</p>	<p>Concerns are raised in relation to the proposed changes to 2.75(b) which may contribute to fragmentation of the rural landscape and increase the potential for land use conflict. Further, the proposed changes are contrary to the New England North West Regional Plan 2041 which aims to support the agricultural sector by allowing farm boundary adjustments and subdivisions only for the purposes of creating a lot for primary production.</p> <p>As this item seeks to introduce a new policy position, the inclusion of this clause is not supported at the present time and should be removed prior to consultation. A condition is imposed in this regard</p>	No

The planning proposal is the best means of achieving the objectives and intended outcomes.



## 3 Strategic assessment

### 3.1 Regional Plan

The New England North West Regional Plan 2041 provides the strategic direction for land use and development across the region.

The Planning Portal states that the proposal is consistent with the New England North West Regional Plan 2041, however this assessment has not been included in the planning proposal document. A condition is recommended requiring the proposal to be amended to include discussion of the Gwydir Shire Local Strategic Planning Statement 2036, Gwydir Shire Council Community Strategic Plan 2017-2027 and New England North West Regional Plan 2041.

The following table provides an assessment of the planning proposal against relevant aspects of the New England North West Regional Plan 2041.

**Table 6 Regional Plan assessment**

Regional Plan Objectives	Justification
Part 2 Productive and innovative	<p><i>Objective 2: Protect the viability and integrity of rural land</i></p> <p>This objective promotes the planning, management and protection of rural land for agricultural purposes, including the consideration of land use conflicts from new development. The proposal is consistent with this objective.</p> <p>Removing the height limit for farm buildings on land holdings greater than 200ha in area may assist in supporting agricultural land uses within the LGA.</p>
Part 3 Sustainable and resilient	<p><i>Objective 12: Protect regional biodiversity and areas of High Environmental Value</i> <i>Local Government Narratives</i></p> <p>As the proposal applies to land across the Gwydir LGA, it will potentially apply to land which contains potential high environmental value (HEV) and biodiversity. The proposal is not inconsistent with this objective as it does not seek to reduce any conservation standards that apply.</p>
Local Government Narrative	<p>The proposal is not inconsistent with the Gwydir Local Government Narrative as it will not compromise the identified priorities for the LGA, including promoting development that contributes to unique character and encouraging diversification in agriculture.</p>

### 3.2 Local

The Planning Portal states that the proposal is consistent with the Gwydir Shire Local Strategic Planning Statement 2036, however an assessment of the LSPS has not included in the planning proposal document.

A condition is recommended requiring the proposal to be amended to include discussion of the Gwydir Shire Local Strategic Planning Statement 2036, Gwydir Shire Council Community Strategic Plan 2017-2027 and New England North West Regional Plan 2041.

The planning proposal is consistent with the strategic direction and objectives, as stated in the table below:

**Table 7 Local strategic planning assessment**

Local Strategies	Justification
Gwydir Local Strategic Planning Statement 2036	<p>The planning proposal is not inconsistent with <i>Planning Priority 1 – Grow our Agriculture, Horticulture and Agribusiness Sectors</i> as the amendments seek to support and enhance agricultural land uses in the Gwydir Shire.</p> <p>The planning proposal case on the Portal states that the proposal creates no inconsistency with the LSPS. However, discussion on the LSPS has not been included within the planning proposal document. A condition is included requiring the planning proposal to be amended to include this discussion prior to public exhibition and agency consultation.</p>
Gwydir Shire Council Community Strategic Plan 2017-2027	The proposal is not inconsistent with ‘An environmentally responsible shire’ in that the changes (as conditioned) are not expected to result in adverse environmental impacts. The introduction of expanded exempt development provisions will not substantially increase the scale of existing exempt development types.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

**Table 8 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Inconsistent justified – Minor significance	<p>The planning proposal is potentially inconsistent with this Direction as it applies to the entire LGA. The planning proposal therefore has the potential to affect areas mapped as potential HEV and important farmland identified in the New England North West Regional Plan 2041.</p> <p>Given the expanded exempt development amendments relate to development that currently does not require development consent, the inconsistency with this Direction is of minor significance.</p> <p>It is, however, recommended consultation occurs with the NSW Department of Primary Industries – Agriculture to confirm the suitability of the proposal.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Inconsistent justified – Minor significance	<p>As the proposal applies to land across the Gwydir LGA, it will potentially apply to land which contains potential high environmental value (HEV) and biodiversity.</p> <p>The planning proposal is inconsistent with this Direction as it does not contain provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>Given the proposal to introduce expanded exempt development provisions does not seek to reduce any conservation standards that apply, introduce additional types of exempt development or allow existing exempt development types in locations where they are not already permitted to occur, the inconsistency with this Direction is of minor significance.</p>
3.2 Heritage Conservation	Inconsistent justified – Minor significance	<p>The planning proposal is inconsistent with this Direction as it does not contain provisions that facilitate the conservation of environmental or Aboriginal heritage.</p> <p>Given the proposal to introduce expanded exempt development provisions does not seek to reduce any conservation standards that apply, introduce additional types of exempt development or allow existing exempt development types in locations where they are not already permitted to occur, the inconsistency with this Direction is of minor significance.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Inconsistent justified – Minor significance	<p>The planning proposal states that there is no change to planning provisions relating to flood prone land. However, this Direction applies as the proposal alters provisions that could potentially affect flood prone land.</p> <p>The proposal is inconsistent with this Direction as it does not address consistency with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</p> <p>The direction also provides that a planning proposal may be inconsistent with this direction only if it can be demonstrated the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005.</p> <p>Given the proposal only relates to the expansion of provisions relating to existing exempt development types specified within the Codes SEPP, the proposal is not expected to result in increased flood risk and the inconsistency with this Direction is of minor significance.</p>
4.3 Planning for Bushfire Protection	Inconsistent – Unresolved	<p>This Direction applies as the proposal alters provisions that could potentially incorporate bushfire prone land.</p> <p>A planning proposal can only be inconsistent with this Direction if the NSW Rural Fire Service does not object to its progression.</p> <p>The inconsistency will remain unresolved until consultation occurs with NSW Rural Fire Service. A condition is included on the Gateway determination in this regard.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.4 Remediation of Contaminated Land	Inconsistent – Minor significance	<p>The planning proposal states that the land does not contain an investigation area nor is it known to be used for a potentially contaminating land use. However, the proposal potentially incorporates land used for a purpose referred to in Table 1 of the contaminated land planning guidelines.</p> <p>Given the expanded exempt development amendments relate to development that currently does not require development consent and would not increase the potential for sensitive land uses to occur outside of a development application, the inconsistency with this Direction is of minor significance.</p>
5.1 Integrating Land Use and Transport	Inconsistent – Minor significance	<p>This Direction applies as the proposal will create or alter a provision relating to urban land.</p> <p>The proposal is inconsistent with the Direction as it has not addressed the specific guidelines identified within the Direction.</p> <p>However, given the proposed exempt development amendments comprise minor changes to existing small-scale development types only and will not result in the intensification of any traffic-generating development type, the inconsistency is of minor significance.</p>
6.1 Residential Zones	Inconsistent – Minor significance	<p>This Direction applies as the planning proposal will affect land within an existing residential zone. The planning proposal is inconsistent with this Direction as it does not include provisions that encourage the provision of housing. Given the planning proposal only relates to minor amendments to exempt development provisions currently contained in the Codes SEPP, the inconsistency is of minor significance. The proposed amendments will support residential land uses within the Gwydir Shire LGA.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
9.2 Rural Lands	Inconsistent – Minor significance	<p>This Direction applies as the planning proposal will affect land within an existing rural zone. The planning proposal is inconsistent with this Direction as it does not fully address the requirements of this Direction. Given the planning proposal only relates to minor amendments to exempt development provisions currently contained in the Codes SEPP, the inconsistency is of minor significance.</p> <p>It is recommended consultation occurs with the NSW Department of Primary Industries – Agriculture to confirm the suitability of the proposal.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs, with the exception of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP). As discussed in section 1.3 of this report, the planning proposal will include an amendment to the Codes SEPP so that clause 1.9(1) will not apply.

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
Flooding	<p>The planning proposal states that there is no change to planning provisions relating to flood prone land. However, the proposal alters exempt development provisions that could potentially incorporate flood prone land.</p> <p>Given the proposal only relates to the expansion of provisions relating to existing exempt development types specified within the Codes SEPP, the proposal (as conditioned) is not expected to result in increased flood risk.</p>
Bushfire	<p>The proposal alters exempt development provisions that could potentially incorporate bushfire prone land. As discussed above, consultation is required to occur with the NSW Rural Fire Service to resolve the inconsistency with the section 9.1 Directions and forms part of the Gateway conditions.</p>

Land use conflict	<p>The planning proposal is not considered to result in an increase in land use conflict issues. The proposal only seeks to expand the provisions for existing exempt development consent types contained within the Codes SEPP and does not seek to intensify residential land uses or result in additional dwelling opportunities (as conditioned).</p> <p>However, it is recommended consultation occurs with the NSW Department of Primary Industries – Agriculture to confirm the suitability of the proposal.</p>
Ecological impacts	<p>The planning proposal applies to the entire LGA or entire zones. The planning proposal therefore has the potential to affect areas mapped as potential HEV land or mapped areas of Biodiversity Values.</p> <p>Given the proposal to introduce expanded exempt development provisions does not seek to reduce any conservation standards that apply or substantially increase the scale of existing exempt development types, no issues are raised in relation to potential ecological impacts.</p>
Land contamination	<p>The planning proposal states that the land does not contain an investigation area nor is it known to be used for a potentially contaminating land use. However, the proposal potentially incorporates land used for a purpose referred to in Table 1 of the contaminated land planning guidelines.</p> <p>Given the expanded exempt development provisions relate to development that currently does not require development consent and would not increase the potential for sensitive land uses to occur outside of a development application, no issues are raised in relation to contamination.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 10 Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>No adverse social impacts associated with the proposal are considered likely due to the relatively minor nature of the proposal. The proposed expansion of exempt development types will assist in the reduction of development assessment load for minor development in the Gwydir Shire local government area and reduce application costs for landholders.</p>
Economic	<p>No significant adverse economic impacts associated with the proposal have been identified. The proposal will expand upon exempt development types in the Codes SEPP which will assist in the reduction of development assessment load for minor development in the Gwydir Shire local government area.</p>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 11 Infrastructure assessment**

Infrastructure	Assessment
Local	There is no new local infrastructure required to facilitate the planning proposal.
State	It is not anticipated that there will be any impact on State or regional infrastructure or the requirement for additional funding.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed (20 working days) is considered appropriate and forms part of the conditions of the Gateway determination.

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Rural Fire Service
- NSW Department of Primary Industries – Agriculture

## 6 Timeframe

Council proposes a six month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard.

The Department recommends a time frame of six months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

As the planning proposal involves an LEP amendment to a State Environmental Planning Policy, Council should not be authorised to be the local plan-making authority.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposed amendments will assist in the reduction of development assessment load for minor development in the Gwydir Shire local government area;
- The proposed amendments are minor in nature and will not result in any adverse social, economic or environmental impacts; and
- The proposed amendments are not inconsistent with the established strategic planning framework for the Gwydir Shire local government area.



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Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- (i) Revise the description of the planning proposal to align with the Gateway determination to accurately reflect the intent of the proposal;
- (ii) Identify the proposal includes an amendment to the Codes SEPP to address clause 1.9(1);
- (iii) Update the content under the 'Need for the Proposal' heading to consider and address all proposed amendments;
- (iv) Include a disclaimer that the final Schedule 2 wording is subject to drafting by Parliamentary Counsel;
- (v) Remove the clause numbers from the Codes SEPP and include new Schedule 2 numbering;
- (vi) Refer to the zones to which each development type will apply;
- (vii) Amend the proposed wording of 'Balconies, decks, patios, pergolas, terraces and verandahs' to ensure a replacement deck is the same height as existing;
- (viii) Amend the proposed wording of 'Fences (certain residential zones and Zone RU5)' to remove proposed subclause (4);
- (ix) Amend the proposed wording of 'Grain silos and grain bunkers' to allow grain to be stored on an adjoining landholding only in the event of an emergency, or if the amount of grain exceeds the amount that can be stored on the land on which it was produced;
- (x) Remove the amendments for 'Change of use of places of public worship', 'Fuel tanks and gas storage' and 'Subdivision' in their entirety;
- (xi) Include discussion of the Gwydir Shire Local Strategic Planning Statement 2036, Gwydir Shire Community Strategic Plan 2017-2027 and New England North West Regional Plan 2041; and
- (xii) Update the planning proposal timeline table.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding, 4.4 Remediation of Contaminated Land, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones and 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultation:

(a) the planning proposal is to be amended to:

- (i) Revise the description of the proposal to align with the Gateway determination to accurately reflect the intent of the proposal;
- (ii) Identify the proposal includes an amendment to the Codes SEPP to address clause 1.9(1);
- (iii) Update the content under the 'Need for the Proposal' heading to consider and address all proposed amendments;

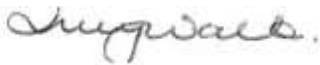
- (iv) Include a disclaimer that the final Schedule 2 wording is subject to drafting by Parliamentary Counsel;
- (v) Remove the clause numbers from the Codes SEPP and include new Schedule 2 numbering;
- (vi) Refer to the zones to which each development type will apply;
- (vii) Amend the proposed wording of 'Balconies, decks, patios, pergolas, terraces and verandahs' to ensure a replacement deck is the same height as existing;
- (viii) Amend the proposed wording of 'Fences (certain residential zones and Zone RU5)' to remove proposed subclause (4);
- (ix) Amend the proposed wording of 'Grain silos and grain bunkers' to allow grain to be stored on an adjoining landholding only in the event of an emergency, or if the amount of grain exceeds the amount that can be stored on the land on which it was produced;
- (x) Remove the amendments for 'Change of use of places of public worship', 'Fuel tanks and gas storage' and 'Subdivision' in their entirety;
- (xi) Include discussion of the Gwydir Shire Local Strategic Planning Statement 2036, Gwydir Shire Community Strategic Plan 2017-2027 and New England North West Regional Plan 2041; and
- (xii) Update the planning proposal timeline table.

2. Consultation is required with the following public authorities:

- NSW Rural Fire Service
- NSW Department of Primary Industries – Agriculture

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

The timeframe for the LEP to be completed is within six months from the date of the Gateway determination.



31 May 2024

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Date)

Lucy Walker  
 Manager, Local Planning and Council Support  
 Hunter and Northern Region



5 June 2024

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Date)

Jeremy Gray  
 Director, Hunter and Northern Region  
 Local Planning and Council Support

Assessment officer

Georgia Weallans

Planning Officer, Hunter and Northern Region

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## 10 Appendix 1 – Existing and proposed provisions

Control	Current	Proposed
<b>Subdivision 6 Balconies, decks, patios, pergolas, terraces and verandahs</b>	<p><b>2.11 Specified development</b></p> <p>The following development is specified for this code—</p> <p>(a) the construction or installation of a balcony, deck, patio, pergola, terrace or verandah, whether free standing or attached to the ground floor level of a building, or roofed or unroofed, if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area,</p> <p>(b) the replacement of a deck if the deck is not higher than 1m above ground level (existing).</p> <p><b>2.12 Development standards</b></p> <p>(1) The standards specified for the development specified in clause 2.11(a) are that the development must—</p> <p>(a) (Repealed)</p> <p>(b) have an area of not more than 25m<sup>2</sup>, and</p> <p>(c) not cause the total floor area of all such structures on the lot to be more than—</p> <p>(i) for a lot larger than 300m<sup>2</sup>— 15% of the ground floor area of the dwelling on the lot, or</p> <p>(ii) for a lot 300m<sup>2</sup> or less—25m<sup>2</sup>, and</p> <p>(d) not have an enclosing wall higher than 1.4m, and</p>	<p><b>2.11 Specified development</b></p> <p>The following development is specified for this code—</p> <p>(a) the construction or installation of a balcony, deck, patio, pergola, terrace or verandah, whether free standing or attached to the ground floor level of a building, or roofed or unroofed, if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area,</p> <p>(b) the replacement of a deck <del>if the deck is not higher than 1m above ground level (existing).</del></p> <p><b>2.12 Development standards</b></p> <p>(1) The standards specified for the development specified in clause 2.11(a) are that the development must—</p> <p>(a) (Repealed)</p> <p>(b) have an area of not more than 25m<sup>2</sup>, and</p> <p>(c) not cause the total floor area of all such structures on the lot to be more than—</p> <p>(i) for a lot larger than 300m<sup>2</sup>— 15% of the ground floor area of the dwelling on the lot, or</p> <p>(ii) for a lot 300m<sup>2</sup> or less—25m<sup>2</sup>, and</p> <p>(d) not have an enclosing wall higher than 1.4m, and</p>

	<p>(e) be located—</p> <p>(i) if carried out in connection with farm experience premises or farm gate premises—more than 50m from a road, or</p> <p>(ii) otherwise—behind the building line of a road frontage, and</p> <p>(f) be located at a distance from each lot boundary of at least—</p> <p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p> <p>(g) (Repealed)</p> <p>(h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and</p> <p>(i) have a floor height not more than 1m above ground level (existing), and</p> <p>(i1) if it is a roofed structure—have a roof that does not overhang the structure by more than 600mm on each side,</p> <p>(j) if it is a roofed structure attached to a dwelling—not extend above the roof gutter line of the dwelling, and</p> <p>(j1) be no higher than 3m at its highest point above ground level (existing), and</p> <p>(k) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and</p> <p>(l) be constructed or installed so that any roofwater is disposed of into an existing stormwater drainage system, and</p> <p>(m) not interfere with the functioning of existing drainage fixtures or flow paths, and</p>	<p>(e) be located—</p> <p>(i) if carried out in connection with farm experience premises or farm gate premises—more than 50m from a road, or</p> <p>(ii) otherwise—behind the building line of a road frontage, and</p> <p>(f) be located at a distance from each lot boundary of at least—</p> <p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p> <p>(g) (Repealed)</p> <p>(h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and</p> <p>(i) have a floor height not more than 1m above ground level (existing), and</p> <p>(i1) if it is a roofed structure—have a roof that does not overhang the structure by more than 600mm on each side,</p> <p>(j) if it is a roofed structure attached to a dwelling—not extend above the roof gutter line of the dwelling, and</p> <p>(j1) be no higher than 3m at its highest point above ground level (existing), and</p> <p>(k) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and</p> <p>(l) be constructed or installed so that any roofwater is disposed of into an existing stormwater drainage system, <b>or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property,</b> and</p>
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	<p>(n) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material. and</p> <p>(o) (Repealed)</p> <p>(2) The standards specified for the development specified in clause 2.11(b) are that the development must—</p> <p>(a) use equivalent or improved quality materials, and</p> <p>(b) not change the size or height of the existing deck.</p> <p>(3) Subclause (1)(h) does not apply to development carried out in connection with a building used for the purposes of farm stay accommodation, farm gate premises or farm experience premises.</p>	<p>(m) not interfere with the functioning of existing drainage fixtures or flow paths, and</p> <p>(n) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material. and</p> <p>(o) (Repealed)</p> <p>(2) The standards specified for the development specified in clause 2.11(b) are that the development must—</p> <p>(a) use equivalent or improved quality materials, and</p> <p>(b) not change the size or height of the existing deck.</p> <p>(3) Subclause (1)(h) does not apply to development carried out in connection with a building used for the purposes of farm stay accommodation, farm gate premises or farm experience premises.</p>
<p><b>Subdivision 9 Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses</b></p>	<p><b>2.17 Specified development</b></p> <p>The construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or greenhouse is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, on land in a foreshore area or in an environmentally sensitive area.</p> <p><b>2.18 Development standards</b></p> <p>(1) The standards specified for that development are that the development must—</p> <p>(a) (Repealed)</p> <p>(b) not have a floor area of more than—</p> <p>(i) on land in Zone RU1, RU2, RU3, RU4, RU6 or R5—50m<sup>2</sup>, or</p> <p>(ii) on land in any other zone—20m<sup>2</sup>, and</p>	<p><b>2.17 Specified development</b></p> <p>The construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or greenhouse is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, on land in a foreshore area or in an environmentally sensitive area.</p> <p><b>2.18 Development standards</b></p> <p>(1) The standards specified for that development are that the development must—</p> <p>(a) (Repealed)</p> <p>(b) not have a floor area of more than—</p> <p>(i) on land in Zone RU1, RU2, RU3, RU4, RU6 or R5—<del>50m<sup>2</sup></del> <b>100m<sup>2</sup></b>, or</p> <p>(ii) on land in any other zone—<del>20m<sup>2</sup></del> <b>50m<sup>2</sup></b>, and</p>

	<p>(c) be not higher than 3m above ground level (existing), and</p> <p>(d) be located at a distance from each lot boundary of at least—</p> <p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p> <p>(e) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and</p> <p>(f) not be a shipping container, and</p> <p>(g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, and</p> <p>(h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials if it is located on land in a residential zone, and</p> <p>(i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and</p> <p>(j) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and</p> <p>(k) if it is located adjacent to another building—be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building, and</p> <p>(l) be a Class 10 building and not be habitable, and</p> <p>(m) be located at least 1m from any registered easement, and</p> <p>(n) in relation to a cabana—not be connected to water supply or sewerage services.</p>	<p>(c) be not higher than 3m above ground level (existing), and</p> <p>(d) be located at a distance from each lot boundary of at least—</p> <p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p> <p>(e) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and</p> <p>(f) not be a shipping container, and</p> <p>(g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, <b>or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property,</b> and</p> <p>(h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials if it is located on land in a residential zone, and</p> <p>(i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and</p> <p>(j) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and</p> <p>(k) if it is located adjacent to another building—be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building, and</p> <p>(l) be a Class 10 building and not be habitable, and</p> <p>(m) be located at least 1m from any registered easement, and</p>
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	<p>(2) There must not be more than 2 developments per lot.</p>	<p>(n) in relation to a cabana—not be connected to water supply or sewerage services.</p> <p>(2) There must not be more than 2 developments per lot.</p>
<b>Subdivision 10 Carports</b>	<p><b>2.19 Specified development</b></p> <p>The construction or installation of a carport is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area.</p> <p><b>2.20 Development standards</b></p> <p>(1) The standards specified for that development are that the development must—</p> <p>(a) not result in a building classified under the Building Code of Australia as class 7a, and</p> <p>(b) not have a floor area more than—</p> <p>(i) for a lot larger than 300m<sup>2</sup> in a rural zone or Zone R5—50m<sup>2</sup>, or</p> <p>(ii) for a lot larger than 300m<sup>2</sup> in a zone other than a rural zone or Zone R5—25m<sup>2</sup>, or</p> <p>(iii) for a lot 300m<sup>2</sup> or less in any zone—20m<sup>2</sup>, and</p> <p>(c) be not higher than 3m above ground level (existing) and, if attached to an existing single storey dwelling, be not higher than the roof gutter line, and</p> <p>(d) be located at least 1m behind the building line of any road frontage, and</p> <p>(e) be located at a distance from each lot boundary of at least—</p> <p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p>	<p><b>2.19 Specified development</b></p> <p>The construction or installation of a carport is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area. <b>Carport means a roofed structure for the shelter of motor vehicles that has 2 or more sides open and not less than one-third of its perimeter open</b></p> <p><b>2.20 Development standards</b></p> <p>(1) The standards specified for that development are that the development must—</p> <p>(a) not result in a building classified under the Building Code of Australia as class 7a, and</p> <p>(b) not have a floor area more than—</p> <p>(i) for a lot larger than 300m<sup>2</sup> in a rural zone or Zone R5—<del>50m<sup>2</sup></del> <b>85m<sup>2</sup></b>, or</p> <p>(ii) for a lot larger than 300m<sup>2</sup> in a zone other than a rural zone or Zone R5—25m<sup>2</sup>, or</p> <p>(iii) for a lot 300m<sup>2</sup> or less in any zone—20m<sup>2</sup>, and</p> <p>(c) be not higher than 3m above ground level (existing) and, if attached to an existing single storey dwelling, be not higher than the roof gutter line, and</p> <p>(d) be located at least 1m behind the building line of any road frontage, and</p> <p>(e) be located at a distance from each lot boundary of at least—</p>

	<p>(f) (Repealed)</p> <p>(g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and</p> <p>(h) not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the Roads Act 1993, and</p> <p>(i) be constructed or installed so that any roofwater is disposed of into the existing stormwater drainage system, and</p> <p>(j) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and</p> <p>(k) (Repealed)</p> <p>(l) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and</p> <p>(m) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and</p> <p>(n) be located so that it does not reduce vehicular access to, or parking or loading or unloading on, or from, the lot.</p> <p><b>Note—</b> See the definition of carport in clause 1.5(1) that sets out additional requirements for carports.</p> <p>(2) The roof of the development must be located at least 500mm from each lot boundary.</p> <p>(3) There must not be more than 1 development—</p> <p>(a) per lot if there is a dwelling on the lot, or</p>	<p>(i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or</p> <p>(ii) for development carried out in any other zone—900mm, and</p> <p>(f) (Repealed)</p> <p>(g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and</p> <p>(h) not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the Roads Act 1993, and</p> <p>(i) be constructed or installed so that any roofwater is disposed of into the existing stormwater drainage system, <b>or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property,</b> and</p> <p>(j) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and</p> <p>(k) (Repealed)</p> <p>(l) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and</p> <p>(m) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and</p> <p>(n) be located so that it does not reduce vehicular access to, or parking or loading or unloading on, or from, the lot.</p> <p><b>Note—</b> <del>See the definition of carport in clause 1.5(1) that sets out additional requirements for carports.</del></p>
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	<p>(b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.</p>	<p>(2) The roof of the development must be located at least 500mm from each lot boundary.</p> <p>(3) There must not be more than 1 development—</p> <p>(a) per lot if there is a dwelling on the lot, or</p> <p>(b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.</p>
<p><b>Subdivision 10B Change of use of places of public worship</b></p>	<p><b>2.20C Specified development</b></p> <p>A change from a current use to a new use that is a change from a place of public worship to another place of public worship is development specified for this code.</p> <p><b>2.20D Development standards</b></p> <p>The standards specified for that development are that—</p> <p>(a) the current use must be a lawful use, and</p> <p>(b) the current use must not be an existing use within the meaning of section 4.65 of the Act, and</p> <p>(c) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management and landscaping, and</p> <p>(d) the new use must not increase or create significant adverse environmental impacts by reason of noise, waste products or traffic generation.</p>	<p><b>2.20C Specified development</b></p> <p>A change from a current use to a new use that is a change from a place of public worship to another place of public worship <b>or a place of public assembly</b> is development specified for this code.</p> <p><b>2.20D Development standards</b></p> <p>The standards specified for that development are that—</p> <p>(a) the current use must be a lawful use, and</p> <p>(b) the current use must not be an existing use within the meaning of section 4.65 of the Act, and</p> <p>(c) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management and landscaping, and</p> <p>(d) the new use must not increase or create significant adverse environmental impacts by reason of noise, waste products or traffic generation.</p>
<p><b>Subdivision 14 Driveways and hard stand spaces</b></p>	<p><b>2.27 Specified development</b></p> <p>The following development is specified for this code if it is not</p>	<p><b>2.27 Specified development</b></p> <p>The following development is specified for this code if it is not</p>

	<p>constructed or installed on or in a heritage item or a draft heritage item, in a heritage conservation area or a draft heritage conservation area, on land in a foreshore area or in an environmentally sensitive area—</p> <p>(a) the construction or installation of a driveway associated with access to an open hard stand space, a carport, a loading bay or a garage,</p> <p>(b) the construction or installation of a hard stand space associated with a driveway, whether open or part of a carport.</p> <p><b>2.28 Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, and</p> <p>(b) be constructed in accordance with AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking or AS 2890.2:2018, Parking facilities, Part 2: Off-street commercial vehicle facilities, and</p> <p>(c) if the development is ancillary development to a dwelling—not require cut or fill more than 600mm below or above ground level (existing), and</p> <p>(d) if the development is not ancillary development to a dwelling—not require cut or fill more than 1m below or above ground level (existing), and</p> <p>(e) if the development is a driveway—</p> <p>(i) not be wider than the open hard stand space, carport or garage with which it is associated, and</p>	<p>constructed or installed on or in a heritage item or a draft heritage item, in a heritage conservation area or a draft heritage conservation area, on land in a foreshore area or in an environmentally sensitive area—</p> <p>(a) the construction or installation of a driveway associated with access to an open hard stand space, a carport, a loading bay or a garage,</p> <p>(b) the construction or installation of a hard stand space associated with a driveway, whether open or part of a carport.</p> <p><b>2.28 Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, <b>or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property,</b> and</p> <p>(b) be constructed in accordance with AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking or AS 2890.2:2018, Parking facilities, Part 2: Off-street commercial vehicle facilities, and</p> <p>(c) if the development is ancillary development to a dwelling—not require cut or fill more than 600mm below or above ground level (existing), and</p> <p>(d) if the development is not ancillary development to a dwelling—not require cut or fill more than 1m below or above ground level (existing), and</p> <p>(e) if the development is a driveway—</p>
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	<p>(ii) be constructed in accordance with the relevant road authority's policy and specifications on vehicle and driveway crossings, and</p> <p>(iii) be subject to written consent from the relevant roads authority (if required under section 138 of the Roads Act 1993) for the building of any kerb, crossover or driveway, and</p> <p>(f) if the development is a hard stand space—</p> <p>(i) measure at least 2.6m wide by 5.4m long, and</p> <p>(ii) have an area of not more than 20m<sup>2</sup>, and</p> <p>(iii) if the development is ancillary to a dwelling—be located at least 1m behind the building line of any road frontage (other than a laneway) and at least 900mm from each side or rear boundary, and</p> <p>(iv) in any other case—be located clear of any required landscaped area, and</p> <p>(g) if the development is constructed or installed in a residential zone or rural zone—not result in the total area of all driveways or hard stand spaces, pathways and paved areas on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and</p> <p>(h) if constructed or installed in a residential zone—</p> <p>(i) if a lot has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and</p> <p>(ii) if a lot has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area.</p>	<p>(i) not be wider than the open hard stand space, carport or garage with which it is associated, and</p> <p>(ii) be constructed in accordance with the relevant road authority's policy and specifications on vehicle and driveway crossings, and</p> <p>(iii) be subject to written consent from the relevant roads authority (if required under section 138 of the Roads Act 1993) for the building of any kerb, crossover or driveway, and</p> <p>(f) if the development is a hard stand space—</p> <p>(i) measure at least 2.6m wide by 5.4m long, and</p> <p>(ii) have an area of not more than 20m<sup>2</sup>, and</p> <p>(iii) if the development is ancillary to a dwelling—be located at least 1m behind the building line of any road frontage (other than a laneway) and at least 900mm from each side or rear boundary, and</p> <p>(iv) in any other case—be located clear of any required landscaped area, and</p> <p>(g) if the development is constructed or installed in a residential zone or rural zone—not result in the total area of all driveways or hard stand spaces, pathways and paved areas on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and</p> <p>(h) if constructed or installed in a residential zone—</p> <p>(i) if a lot has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and</p> <p>(ii) if a lot has a width at the front building line of more than 18m—have at least 50% of the area</p>
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		forward of the building line as landscaped area.
<b>Subdivision 16 Farm buildings (other than stock holding yards, grain silos and grain bunkers)</b>	<p><b>2.31 Specified development</b></p> <p>The construction or installation of a farm building (other than a stock holding yard, grain silo or grain bunker) that is not used for habitable purposes is development specified for this code if it is—</p> <p>(a) constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6, and</p> <p>(b) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area, and</p> <p>(c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport.</p> <p><b>Note 1—</b></p> <p>Farm building is defined in the Standard Instrument as a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.</p> <p><b>Note 2—</b></p> <p>Subdivisions 16A and 16B make special provision for farm buildings that are stock holding yards, grain silos or grain bunkers.</p> <p><b>2.32 Development standards</b></p>	<p><b>2.31 Specified development</b></p> <p>The construction or installation of a farm building (other than a stock holding yard, grain silo or grain bunker) that is not used for habitable purposes is development specified for this code if it is—</p> <p>(a) constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6, and</p> <p>(b) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area, and</p> <p>(c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport.</p> <p><b>Note 1—</b></p> <p>Farm building is defined in the Standard Instrument as a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.</p> <p><b>Note 2—</b></p> <p>Subdivisions 16A and 16B make special provision for farm buildings that are stock holding yards, grain silos or grain bunkers.</p> <p><b>2.32 Development standards</b></p>

	<p>(1) The following standards are specified for that development—</p> <p>(a) the development must not be higher than—</p> <p>(i) for a landholding that has an area of less than 10ha—7m above ground level (existing), and</p> <p>(ii) for a landholding that has an area of 10ha or more—10m above ground level (existing),</p> <p>(b) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,</p> <p>(c) if the development—</p> <p>(i) is on a landholding that has an area of more than 4ha, and</p> <p>(ii) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and</p> <p>(iii) is located within 100m of that ridgeline,</p> <p>it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,</p> <p>(d) subject to paragraph (e), the footprint of a farm building must not exceed 200m<sup>2</sup>,</p> <p>(e) the footprint of all farm buildings (other than grain bunkers) on a landholding must not exceed the footprint shown in the following table—</p> <table border="1" data-bbox="564 1832 976 2018"> <thead> <tr> <th data-bbox="564 1832 767 1921">Landholding area</th> <th data-bbox="767 1832 976 2018">Maximum footprint of all farm buildings (other than</th> </tr> </thead> <tbody> <tr> <td data-bbox="564 1921 767 2018"></td> <td data-bbox="767 1921 976 2018"></td> </tr> </tbody> </table>	Landholding area	Maximum footprint of all farm buildings (other than			<p>(1) The following standards are specified for that development—</p> <p>(a) the development must not be higher than—</p> <p>(i) for a landholding that has an area of less than 10ha—7m above ground level (existing), and</p> <p>(ii) for a landholding that has an area of 10ha <del>or more</del> <b>to 200ha</b>—10m above ground level (existing),</p> <p><b>(iii) for a landholding that has an area of greater than 200ha – no limit.</b></p> <p>(b) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,</p> <p>(c) if the development—</p> <p>(i) is on a landholding that has an area of more than 4ha, and</p> <p>(ii) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and</p> <p>(iii) is located within 100m of that ridgeline,</p> <p>it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,</p> <p>(d) subject to paragraph (e), the footprint of a farm building must not exceed 200m<sup>2</sup>,</p> <p>(e) the footprint of all farm buildings (other than grain bunkers) on a landholding must not exceed the footprint shown in the following table—</p> <table border="1" data-bbox="1005 1832 1433 2018"> <thead> <tr> <th data-bbox="1005 1832 1208 1921">Landholding area</th> <th data-bbox="1208 1832 1433 2018">Maximum footprint of all farm buildings (other than</th> </tr> </thead> <tbody> <tr> <td data-bbox="1005 1921 1208 2018"></td> <td data-bbox="1208 1921 1433 2018"></td> </tr> </tbody> </table>	Landholding area	Maximum footprint of all farm buildings (other than		
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	<p>(k) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority,</p> <p>(l) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.</p> <p><b>Note 1—</b></p> <p>There are other existing legislative requirements relating to the clearance of power lines, substations and Obstacle Limitation Surfaces near airport flight paths.</p> <p><b>Note 2—</b></p> <p>The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p>	<p>(i) the development must be designed by, and constructed in accordance with the specifications of, a professional engineer,</p> <p>(j) if the development is a shipping container, there must not be more than the following number of shipping containers per landholding—</p> <p>(i) for a landholding that has an area of less than 400ha—1,</p> <p>(ii) for a landholding that has an area of 400ha or more—5,</p> <p>(k) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority,</p> <p>(l) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.</p> <p><b>Note 1—</b></p> <p>There are other existing legislative requirements relating to the clearance of power lines, substations and Obstacle Limitation Surfaces near airport flight paths.</p>
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<p><b>Subdivision 16B Grain silos and grain bunkers</b></p>	<p><b>2.32C Specified development</b></p> <p>(1) The construction or installation of a farm building that is a grain silo or grain bunker that is not used for habitable purposes is development specified for this code if it is—</p> <p>(a) constructed or installed on land in Zone RU1, RU2 or RU6, and</p> <p>(b) used for the purpose of the storage of grain that has been produced on the landholding, and</p> <p>(c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport, and</p> <p>(d) in the case of development that has a footprint greater than 200m<sup>2</sup>—not carried out on unsewered land in the Sydney Drinking Water Catchment, if that development will result in a site disturbance area of more than 250m<sup>2</sup>, and</p> <p>(e) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including</p>	<p><b>2.32C Specified development</b></p> <p>(1) The construction or installation of a farm building that is a grain silo or grain bunker that is not used for habitable purposes is development specified for this code if it is—</p> <p>(a) constructed or installed on land in Zone RU1, RU2 or RU6, and</p> <p>(b) used for the purpose of the storage of grain that has been produced on the landholding, and</p> <p>(c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport, and</p> <p>(d) in the case of development that has a footprint greater than 200m<sup>2</sup>—not carried out on unsewered land in the Sydney Drinking Water Catchment, if that development will result in a site disturbance area of more than 250m<sup>2</sup>, and</p> <p>(e) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the</p>



	<p>the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.</p> <p><b>2.32D Development standards—general</b></p> <p>The following standards are specified for that development—</p> <p>(a) the development must not be constructed or installed on a landholding with an area of less than 40ha,</p> <p>(b) the development must be located at least 15m from any road boundary and at least 100m from any other boundary,</p> <p>(c) the development must be located at least 100m from any dwelling,</p> <p>(d) the development must be located at least 6m from any other farm building (including any farm building that is a stock holding yard) on the landholding or on an adjoining landholding,</p> <p>(e) the development must be located at least 50m from a waterbody (natural),</p> <p>(f) if the development—</p> <p>(i) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and</p> <p>(ii) is located within 100m of that ridgeline,</p> <p>it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,</p> <p>(g) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the</p>	<p>perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.</p> <p><b>2.32D Development standards—general</b></p> <p>The following standards are specified for that development—</p> <p>(a) the development must not be constructed or installed on a landholding with an area of less than 40ha,</p> <p>(b) the development must be located at least 15m from any road boundary and at least 100m from any other boundary,</p> <p>(c) the development must be located at least 100m from any dwelling,</p> <p>(d) the development must be located at least 6m from any other farm building (including any farm building that is a stock holding yard) on the landholding or on an adjoining landholding,</p> <p>(e) the development must be located at least 50m from a waterbody (natural),</p> <p>(f) if the development—</p> <p>(i) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and</p> <p>(ii) is located within 100m of that ridgeline,</p> <p>it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,</p> <p>(g) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the</p>
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	<p>operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority,</p> <p>(h) if the development is located within 13km of an airfield or aerodrome—the development must be adequately sealed or protected to prevent the entry of wildlife,</p> <p>(i) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.</p> <p><b>Note 1—</b></p> <p>There are other existing legislative requirements relating to the clearance of power lines and Obstacle Limitation Surfaces near airport flight paths.</p> <p><b>Note 2—</b></p> <p>The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p> <p><b>2.32E Development standards—grain silos</b></p> <p>(1) The following additional standards are specified for that development if the development is a grain silo—</p> <p>(a) it must not be higher than—</p> <p>(i) in the case of a landholding that has an area of 40ha or more but less than 100ha—7m above ground level (existing), and</p> <p>(ii) in the case of a landholding that has an area of 100ha or</p>	<p>proposed development and reported to the Civil Aviation Safety Authority,</p> <p>(h) if the development is located within 13km of an airfield or aerodrome—the development must be adequately sealed or protected to prevent the entry of wildlife,</p> <p>(i) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.</p> <p><b>Note 1—</b></p> <p>There are other existing legislative requirements relating to the clearance of power lines and Obstacle Limitation Surfaces near airport flight paths.</p> <p><b>Note 2—</b></p> <p>The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p> <p><b>2.32E Development standards—grain silos</b></p> <p>(1) The following additional standards are specified for that development if the development is a grain silo—</p> <p>(a) it must not be higher than—</p> <p>(i) in the case of a landholding that has an area of 40ha or more but less than 100ha—7m above ground level (existing), and</p> <p>(ii) in the case of a landholding that has an area of 100ha or more—15m above ground level (existing),</p>
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	<p>more—15m above ground level (existing),</p> <p>(b) it must not have a footprint greater than 200m<sup>2</sup>,</p> <p>(c) it must not have a footprint that would result in the footprint of all farm buildings (other than grain bunkers) on the landholding exceeding the footprint shown in the following table—</p> <table border="1" data-bbox="566 582 976 1131"> <thead> <tr> <th>Landholding area</th> <th>Maximum footprint of all farm buildings (other than grain bunkers)</th> </tr> </thead> <tbody> <tr> <td>0–4ha</td> <td>2.5% of the area of the landholding</td> </tr> <tr> <td>&gt;4ha–10ha</td> <td>1,000m<sup>2</sup></td> </tr> <tr> <td>&gt;10ha</td> <td>2,000m<sup>2</sup></td> </tr> </tbody> </table> <p>(d) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,</p> <p>(e) it must be constructed in accordance with the Code of Practice entitled “Safety Aspects in the Design of Bulk Solids Containers Including Silos, Field Bins and Chaser Bins” as published on the website SafeWork NSW and amended from time to time,</p> <p>(f) in the case of a grain silo that is sealed—it must be designed and sealed in accordance with sections 2 and 3 of AS 2628—2010, Sealed grain-storage silos—</p>	Landholding area	Maximum footprint of all farm buildings (other than grain bunkers)	0–4ha	2.5% of the area of the landholding	>4ha–10ha	1,000m <sup>2</sup>	>10ha	2,000m <sup>2</sup>	<p>(b) it must not have a footprint greater than 200m<sup>2</sup>,</p> <p>(c) it must not have a footprint that would result in the footprint of all farm buildings (other than grain bunkers) on the landholding exceeding the footprint shown in the following table—</p> <table border="1" data-bbox="1008 504 1420 1220"> <thead> <tr> <th>Landholding area</th> <th>Maximum footprint of all farm buildings (other than grain bunkers)</th> </tr> </thead> <tbody> <tr> <td>0–4ha</td> <td>2.5% of the area of the landholding</td> </tr> <tr> <td>&gt;4ha–10ha</td> <td>1,000m<sup>2</sup></td> </tr> <tr> <td>&gt;10ha–200ha</td> <td>2,000m<sup>2</sup></td> </tr> <tr> <td>&gt;200ha–1,000ha</td> <td>4,000m<sup>2</sup></td> </tr> <tr> <td>&gt;1,000ha</td> <td>10,000m<sup>2</sup></td> </tr> </tbody> </table> <p>(d) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,</p> <p>(e) it must be constructed in accordance with the Code of Practice entitled “Safety Aspects in the Design of Bulk Solids Containers Including Silos, Field Bins and Chaser Bins” as published on the website SafeWork NSW and amended from time to time,</p> <p>(f) in the case of a grain silo that is sealed—it must be designed and sealed in accordance with sections</p>	Landholding area	Maximum footprint of all farm buildings (other than grain bunkers)	0–4ha	2.5% of the area of the landholding	>4ha–10ha	1,000m <sup>2</sup>	>10ha–200ha	2,000m <sup>2</sup>	>200ha–1,000ha	4,000m <sup>2</sup>	>1,000ha	10,000m <sup>2</sup>
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	<p>Sealing requirements for insect control,</p> <p>(g) it must not result in more than 5 silos being erected on a landholding.</p> <p>(2) In this clause, footprint means the surface area covered by a built structure that has either a roof or a floor installed as a fixture, or both, excluding the area of access ramps, eaves, sunshade devices, hard surfaces for parking or landscaping associated with the structure.</p> <p><b>2.32F Development standards—grain bunkers</b></p> <p>(1) The following additional standards are specified for that development if the development is a grain bunker—</p> <p>(a) it must not be higher than 7m above ground level (existing),</p> <p>(b) it must not have a footprint that would result in the footprint of all grain bunkers on the landholding exceeding 7,000m<sup>2</sup>,</p> <p>(c) if the development is located on land that is identified as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not have a footprint greater than 200m<sup>2</sup>,</p> <p>(d) any structural elements, including any wall or concrete floor slab, of the development must be constructed in accordance with the specifications of a professional engineer,</p> <p>(e) despite clause 2.30, it must not require cut or fill more than 1m below or above ground level (existing) and any cut or fill must only be carried out wholly within a 50m radius of the grain bunker,</p>	<p>2 and 3 of AS 2628—2010, Sealed grain-storage silos—Sealing requirements for insect control,</p> <p>(g) it must not result in more than 5 silos being erected on a landholding.</p> <p>(2) In this clause, footprint means the surface area covered by a built structure that has either a roof or a floor installed as a fixture, or both, excluding the area of access ramps, eaves, sunshade devices, hard surfaces for parking or landscaping associated with the structure.</p> <p><b>2.32F Development standards—grain bunkers</b></p> <p>(1) The following additional standards are specified for that development if the development is a grain bunker—</p> <p>(a) it must not be higher than 7m above ground level (existing),</p> <p>(b) it must not have a footprint that would result in the footprint of all grain bunkers on the landholding exceeding 7,000m<sup>2</sup>, or 10,000m<sup>2</sup> if the property has an area in excess of 1,000ha.</p> <p>(c) if the development is located on land that is identified as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not have a footprint greater than 200m<sup>2</sup>,</p> <p>(d) any structural elements, including any wall or concrete floor slab, of the development must be constructed in accordance with the specifications of a professional engineer,</p> <p>(e) despite clause 2.30, it must not require cut or fill more than 1m below or above ground level (existing) and any cut or fill must</p>
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	<p>(f) it must not cause the redirection of the flow of any surface water or ground water or cause sediment to be transported onto an adjoining landholding,</p> <p>(g) it must be not be located over any registered easement, sewer main or water main.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, excluding the area of access ramps, eaves and sunshade devices.</p> <p><b>Note 1—</b> It is an offence to transport waste to a place other than an appropriate and lawful waste facility (see section 143 of the Protection of the Environment Operations Act 1997).</p> <p><b>Note 2—</b> The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p> <p><b>Note 3—</b> Subdivision 15 of Division 1 of Part 2 contains additional requirements relating to earthworks.</p>	<p>only be carried out wholly within a 50m radius of the grain bunker,</p> <p>(f) it must not cause the redirection of the flow of any surface water or ground water or cause sediment to be transported onto an adjoining landholding,</p> <p>(g) it must be not be located over any registered easement, sewer main or water main.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, excluding the area of access ramps, eaves and sunshade devices.</p> <p><b>Note 1—</b> It is an offence to transport waste to a place other than an appropriate and lawful waste facility (see section 143 of the Protection of the Environment Operations Act 1997).</p> <p><b>Note 2—</b> The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p> <p><b>Note 3—</b> Subdivision 15 of Division 1 of Part 2 contains additional requirements relating to earthworks.</p>
<p><b>Subdivision 17 Fences (certain residential zones and Zone RU5)</b></p>	<p><b>2.33 Specified development</b></p> <p>The construction or installation of a fence on land within Zone R1, R2, R3, R4 or RU5 is development specified for this code if it is not constructed or installed—</p> <p>(a) on a lot, or along a common boundary of a lot, that contains a</p>	<p><b>2.33 Specified development</b></p> <p>The construction or installation of a fence on land within Zone R1, R2, R3, R4 or RU5 is development specified for this code if it is not constructed or installed—</p> <p>(a) on a lot, or along a common boundary of a lot, that contains a</p>

	<p>heritage item or a draft heritage item, or</p> <p>(b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or</p> <p>(c) on a flood control lot, or</p> <p>(d) on land that is identified as being in a foreshore area.</p> <p><b>Note—</b></p> <p>If the fence is a dividing fence, the Dividing Fences Act 1991 also applies.</p> <p><b>2.34 Development standards</b></p> <p>(1) The standards specified for development specified in clause 2.33 are that the development must—</p> <p>(a) not be higher than 1.8m above ground level (existing), and</p> <p>(b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and</p> <p>(c) if it includes an entrance gate—not have a gate that opens outwards, and</p> <p>(d) if it is located in a core koala habitat or potential koala habitat within the meaning of State Environmental Planning Policy No 44—Koala Habitat Protection or in a movement corridor used by koalas—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and</p> <p>(e) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and</p> <p>(f) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and</p>	<p>heritage item or a draft heritage item, or</p> <p>(b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or</p> <p>(c) on a flood control lot, or</p> <p>(d) on land that is identified as being in a foreshore area.</p> <p><b>Note—</b></p> <p>If the fence is a dividing fence, the Dividing Fences Act 1991 also applies.</p> <p><b>2.34 Development standards</b></p> <p>(1) The standards specified for development specified in clause 2.33 are that the development must—</p> <p>(a) not be higher than 1.8m above ground level (existing), and</p> <p>(b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and</p> <p>(c) if it includes an entrance gate—not have a gate that opens outwards, <b>unless the gate swing is wholly within private land,</b> and</p> <p>(d) if it is located in a core koala habitat or potential koala habitat within the meaning of State Environmental Planning Policy No 44—Koala Habitat Protection or in a movement corridor used by koalas—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and</p> <p>(e) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and</p> <p>(f) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and</p>
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	<p>(g) not be an electrical fence or use barbed wire.</p> <p>(2) Despite subclause (1), any fence located along the boundary of, or within the setback area to, a primary or secondary road must—</p> <p>(a) not be more than 1.2m above ground level (existing), and</p> <p>(b) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above this height being no more than 350mm in width with a minimum aperture of 25mm.</p> <p>(3) If a lot has a frontage to a secondary road or roads, subclause (2) only applies to 50% of the length of all contiguous secondary road boundaries, measured from the corner with the primary road boundary.</p> <p>(4) Subclause (2)(b) does not apply to the part of the fence along the side boundary and within the setback area to the primary road.</p> <p>(5) Despite subclauses (1) and (2), if the fence is erected on a sloping site and stepped to accommodate the fall in the land—</p> <p>(a) a fence that is required to be not more than 1.2m above ground level (existing), must not be more than 1.5m above ground level (existing) at each step, and</p> <p>(b) a fence that is required to be not more than 1.8m above ground level (existing), must not be more than 2.2m above ground level (existing) at each step.</p>	<p>(g) not be an electrical fence or use barbed wire.</p> <p>(2) Despite subclause (1), any fence located along the boundary of, or within the setback area to, a primary or secondary road must—</p> <p><del>(a) not be more than 1.2m above ground level (existing), and</del></p> <p><del>(b) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above this height being no more than 350mm in width with a minimum aperture of 25mm.</del></p> <p>(3) If a lot has a frontage to a secondary road or roads, subclause (2) <del>only applies to 50% of the length of all contiguous secondary road boundaries, measured from the corner with the primary road boundary.</del> <b>only applies in front of the building line to the primary frontage.</b></p> <p>(4) Subclause (2)(b) does not apply to the part of the fence along the side boundary and within the setback area to the primary road.</p> <p>(5) Despite subclauses (1) and (2), if the fence is erected on a sloping site and stepped to accommodate the fall in the land—</p> <p>(a) a fence that is required to be not more than 1.2m above ground level (existing), must not be more than 1.5m above ground level (existing) at each step, and</p> <p>(b) a fence that is required to be not more than 1.8m above ground level (existing), must not be more than 2.2m above ground level (existing) at each step.</p>
<p><b>Subdivision 21AA Fuel tanks and gas storage</b></p>	<p><b>2.42AA Specified development</b></p> <p>The construction or installation of an above ground fuel tank or gas storage facility for agricultural activity is development specified</p>	<p><b>2.42AA Specified development</b></p> <p>The construction or installation of an above ground fuel tank or gas storage facility for agricultural activity is development specified</p>

	<p>for this code if it is constructed or installed on a lot in a rural zone that is larger than 2ha and is not constructed or installed in an environmentally sensitive area.</p> <p><b>2.42AB Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) not have a capacity of more than—</p> <p>(i) for a fuel tank—5,000 L, or</p> <p>(ii) for a gas tank—1,000 L, and</p> <p>(b) be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary, and</p> <p>(c) be banded with the capacity to contain at least 110% of the capacity of the tank, and</p> <p>(d) if a fuel tank—be constructed of prefabricated metal, be freestanding and installed in accordance with the requirements of AS 1940:2017, The storage and handling of flammable and combustible liquids, and</p> <p>(e) if a gas tank—be designed and constructed in accordance with the requirements of AS/NZS 1596:2014, The storage and handling of LP Gas by a professional engineer, and</p> <p>(f) not be used for advertising, and</p> <p>(g) be located at least 1m from any registered easement, sewer main or water main.</p> <p>Note—</p> <p>Other existing legislative requirements still apply in relation to work place health and safety issues.</p>	<p>for this code if it is constructed or installed on a lot in a rural zone that is larger than 2ha and is not constructed or installed in an environmentally sensitive area.</p> <p><b>2.42AB Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) not have a capacity of more than—</p> <p>(i) for a fuel tank—5,000 L, or</p> <p>(ii) for a gas tank—1,000 L, and</p> <p>(b) be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary, and</p> <p>(c) be self-banded or externally banded with the capacity to contain at least 110% of the capacity of the tank, and</p> <p>(d) if a fuel tank—be constructed of prefabricated metal, be freestanding and installed in accordance with the requirements of AS 1940:2017, The storage and handling of flammable and combustible liquids, and</p> <p>(e) if a gas tank—be designed and constructed in accordance with the requirements of AS/NZS 1596:2014, The storage and handling of LP Gas by a professional engineer, and</p> <p>(f) not be used for advertising, and</p> <p>(g) be located at least 1m from any registered easement, sewer main or water main.</p> <p>Note—</p> <p>Other existing legislative requirements still apply in relation to work place health and safety issues.</p>
<p><b>Subdivision 28 Pathways and paving</b></p>	<p><b>2.55 Specified development</b></p>	<p><b>2.55 Specified development</b></p>



	<p>(1) The construction or installation of a pathway or paving, including any paving of a deck, pergola, patio or terrace is development specified for this code.</p> <p>(2) Subclause (1) does not include any paving of a driveway, hard stand space or turning or parking area to be used by vehicles for any purpose, including the delivery or loading of goods.</p> <p><b>2.56 Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, and</p> <p>(b) if constructed or installed in a residential zone or Zone RU5—</p> <p>(i) not require cut or fill more than 600mm below or above ground level (existing), and</p> <p>(ii) not result in the total area of all paved areas (including driveways and hard stand spaces) on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and</p> <p>(c) if constructed or installed in a residential zone—</p> <p>(i) on a lot that has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and</p> <p>(ii) on a lot that has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area, and</p> <p>(d) if constructed or installed in a zone (other than a residential zone or Zone RU5)—</p>	<p>(1) The construction or installation of a pathway or paving, including any paving of a deck, pergola, patio or terrace is development specified for this code.</p> <p>(2) Subclause (1) does not include any paving of a driveway, hard stand space or turning or parking area to be used by vehicles for any purpose, including the delivery or loading of goods.</p> <p><b>2.56 Development standards</b></p> <p>The standards specified for that development are that the development must—</p> <p>(a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, <b>or, if no system exists, in a manner that does not increase overland flow outside the boundaries of the property,</b> and</p> <p>(b) if constructed or installed in a residential zone or Zone RU5—</p> <p>(i) not require cut or fill more than 600mm below or above ground level (existing), and</p> <p>(ii) not result in the total area of all paved areas (including driveways and hard stand spaces) on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and</p> <p>(c) if constructed or installed in a residential zone—</p> <p>(i) on a lot that has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and</p> <p>(ii) on a lot that has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area, and</p>
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	<p>(i) not require cut or fill more than 1m below or above ground level (existing), and</p> <p>(ii) not reduce any required landscaped area along a boundary with a road or an adjoining lot on which a dwelling is located.</p> <p>Note—</p> <p>The Standard Instrument defines landscaped area as a part of a site used for growing plants, grasses and trees, but not including any building, structure or hard paved area.</p>	<p>(d) if constructed or installed in a zone (other than a residential zone or Zone RU5)—</p> <p>(i) not require cut or fill more than 1m below or above ground level (existing), and</p> <p>(ii) not reduce any required landscaped area along a boundary with a road or an adjoining lot on which a dwelling is located.</p> <p>Note—</p> <p>The Standard Instrument defines landscaped area as a part of a site used for growing plants, grasses and trees, but not including any building, structure or hard paved area.</p>
<p><b>Subdivision 38 Subdivision</b></p>	<p><b>2.75 Specified development</b></p> <p>The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code—</p> <p>(a) widening a public road,</p> <p>(b) a realignment of boundaries—</p> <p>(i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and</p> <p>(ii) that will not create additional lots or increase the number of lots with a dwelling entitlement or increase the opportunity for additional dwellings, and</p> <p>(iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (other than a lot that was already smaller than that minimum size), and</p> <p>(iv) that will not adversely affect the provision of existing services on a lot, and</p> <p>(v) that will not result in any increased fire risk to existing buildings, and</p>	<p><b>2.75 Specified development</b></p> <p>The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code—</p> <p>(a) widening a public road,</p> <p>(b) a realignment of boundaries—</p> <p>(i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and</p> <p>(ii) that will not create additional lots or increase the number of lots with a dwelling entitlement, <b>except where all lots are either above the minimum lot size, or would not be reduced in area if below the minimum lot size and contain a dwelling</b> <del>or increase the opportunity for additional dwellings,</del> and</p> <p><del>(iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (other than a lot that was already smaller than that minimum size), and</del></p> <p>(iv) that will not adversely affect the provision of existing services on a lot, and</p>

	<p>(vi) if located in Zone RU1, RU2, RU3, RU4, RU6, C1, C2, C3 or C4—that will not result in more than a minor change in the area of any lot, and</p> <p>(vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,</p> <p>(c) (Repealed)</p> <p>(d) rectifying an encroachment on a lot,</p> <p>(e) creating a public reserve,</p> <p>(f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.</p> <p><b>2.76 Development standards</b></p> <p>Note—</p> <p>(At the commencement of this clause no standards were specified.)</p>	<p>(v) that will not result in any increased fire risk to existing buildings, and</p> <p>(vi) if located in Zone RU1, RU2, RU3, RU4, RU6, C1, C2, C3 or C4—that will not result in more than a <del>minor</del> 50% change in the area of any lot, and</p> <p>(vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,</p> <p>(c) (Repealed)</p> <p>(d) rectifying an encroachment on a lot,</p> <p>(e) creating a public reserve,</p> <p>(f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.</p> <p><b>2.76 Development standards</b></p> <p>Note—</p> <p>(At the commencement of this clause no standards were specified.)</p>
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