

Upper Lachlan Development Control Plan 2010



Original Plan adopted by Council 18 February 2010 – effective 9 July 2010

Amendment No. 1

**Adopted by Council 19 May 2011, Confirmed by Council 16 June 2011, Minute No. 161/11
Effective 23 June 2011**

Amendment No. 2

**Adopted by Council 15 September 2011, Minute No. 343/11
Effective 22 September 2011**

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Abbreviations used in this Plan

AHIMS	Aboriginal Heritage Information Management System
APZ	Asset Protection Zones
BCA	Building Code of Australia
CEP	Community Enhancement Program
Council	Upper Lachlan Shire Council
CPI	Consumer Price Index
CPTED	Crime Prevention Through Environmental Design
DDA	<i>Disability Discrimination Act 1992</i>
DECCW	Department of Environment Climate Change and Water
DoP	Department of Planning
EMA	Effluent Management Area
EMP	Environmental Management Plan
NLS	Nett Leasable Space
OSD	On-site detention
REP1	Drinking Waters Catchments Regional Environmental Plan No 1
RTA	Roads and Traffic Authority
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SIS	Species Impact Statement
SMP	Stormwater Management Plan
the Act	<i>Environmental Planning and Assessment Act 1979</i>
the LEP	Upper Lachlan Local Environmental Plan 2010
this Plan	Upper Lachlan Development Control Plan 2010

1. Preliminary

1.1 Name of Plan

This Plan is known as the Upper Lachlan Development Control Plan 2010. This Plan has been prepared in accordance with Section 72 of the *Environmental Planning and Assessment Act 1979* (the Act).

1.2 Land to which this Plan applies

This Plan applies to all land within the Upper Lachlan Shire local government area.

1.3 Purpose of this Plan

This Plan shall be used in conjunction with Upper Lachlan Local Environmental Plan 2010 (LEP). The LEP provides the legal framework by which Council's development decisions are made and sets out objectives, zonings, zoning provisions and development requirements.

This Plan supplements the LEP by providing general information and detailed guidelines and controls which relate to the decision making process. The LEP and this Plan provide the land use planning and development controls for the Upper Lachlan local government area.

1.4 Date of adoption

This Plan was adopted by Upper Lachlan Shire Council (Council) on 18 February 2010 and commenced operation from the day on which the LEP was published on the NSW Legislation website, being 9 July 2010.

This Plan is subject to amendment from time to time. Plan users should refer to the list of amendments at Section 1.7 of this Plan.

1.5 Other planning policies and instruments

This Plan incorporates the statutory requirements of the *Environmental Planning and Assessment Act 1979* (as amended) and the *Environmental Planning and Assessment Regulation 2000*.

This Plan supersedes all Development Control Plans and Guidelines of the former Crookwell, Gunning, Mulwaree and Upper Lachlan Shire Councils, adopted and in force prior to the date of this Plan coming into effect.

This Plan supports the provisions of the LEP and should be read in conjunction with other planning instruments, Council policies, codes and specific development specifications.

Where there is an inconsistency between this Plan and any environmental planning instrument applying to the same land, the provisions of the environmental planning instrument will apply.

In addition to the above and the provisions of this Plan, in assessing development proposals, Council must consider all those matters specified in Section 79C of the *Environmental Planning and Assessment Act 1979*, as amended. As such, compliance with this Plan does not infer development consent will be granted.

1.6 Structure of this Plan

This Plan is structured in the following manner:

- Section 2 – Plan Objectives
- Section 3 – Submitting a Development Application
- Section 4 – General Development Controls
- Section 5 – Residential Development
- Section 6 – Commercial Development
- Section 7 – Industrial Development
- Section 8 – Rural Development
- Section 9 – Special Development Types
- Section 10 – Engineering requirements

1.7 Variation to provisions

An applicant may request a variation to a standard. Variations will only be considered where they are justified as part of the development application and it can be demonstrated that the objectives of this Plan will still be achieved.

Each application will be considered on the basis of the individual circumstances, merits of the case and in terms of achieving the aims and objectives of this Plan.

A request for variation must be in writing and specify:

- the standard to be varied,
- variation requested (including calculations), and
- detail in support of the variation – justify the variation and demonstrate how the aims and objectives of this Plan will still be met.

1.8 List of amendments to this Plan

The following is a list of amendments made to this Plan after the adoption of this Plan:

No. 1 – Adopted by Council 19 May 2011, confirmed by Council 16 June 2011, Minute No. 161/11 effective 23 June 2011 – Section 3.17 Community Enhancement Program, Section 9.5 Wind farms and Appendix A were amended.

No. 2 – Adopted by Council 15 September 2011, Minute No. 343/11 effective 22 September 2011 – Section 3.17 Community Enhancement Program amended and Appendix B added.

1.9 Definitions

The definitions contained in the LEP are relevant to this Plan in addition to any Plan specific definitions. The Plan specific definitions, if relevant, are as follows:

farm forestry means an industry that includes the use of trees on farm land to produce saleable products such as timber, oil, tannin, charcoal or carbon credits

1.10 References

References to all legislation, standards, policies should be read as a reference to the most recent version of that legislation, standard or policy.

2. Plan Objectives

These objectives represent the policy framework established to guide all future development within the Upper Lachlan Shire.

- To manage development such that it encourages orderly and sustainable growth whilst having regard to character, amenity, rural and agricultural productivity and environmental values associated with the Shire.
- To ensure that all development has regard to and reflects the principles of ecologically sustainable development.
- To provide a basis for assessing development applications.
- To provide certainty and confidence about the quality of development within the Shire.

These objectives are supported by specific Village/Residential and Rural objectives, identified in Sections 2.1 and 2.2 respectively.

The Upper Lachlan Strategy – 2020 Vision has identified four localities which will be the key focus for development over the life of this Plan: Crookwell, Gunning, Taralga and Collector and Council's objectives for development in these localities are outlined in Section 2.1.

2.1 Village/Residential Development Objectives

These objectives have been prepared to provide specific guidance for the use and development of land and premises within Crookwell, Gunning, Taralga and Collector.

- Residential development:
 - To ensure that new and alterations to existing residential development do not significantly detract from the amenity, privacy and views of other dwellings and public view corridors.
 - To manage the potential for land use conflict between residential and agricultural uses. New and or sensitive land uses should be located an acceptable distance from hazardous or offensive agricultural operations, unless an appropriate buffer has been established.
 - To ensure that the scale of residential development is appropriate for lot sizes and in relation to other dwellings in the vicinity.
 - To maximise the energy efficiency of dwellings.
 - To improve stormwater management.
- Commercial/industrial/mixed use development:
 - To enhance the scenic quality and amenity of commercial and industrial streetscapes and public places.
 - To enhance the commercial amenity and economic viability of the commercial centre.
 - To promote active street level frontages in main streets.
 - To minimise any potential adverse impacts from commercial and industrial premises on the surrounding environment.
 - To ensure the operation of commercial premises is compatible with and does not adversely impact on the amenity and character of any adjoining residential uses.

2.2 Rural Development Objectives

Rural and agricultural activities and living are key land uses across the Shire. This Plan recognises the importance of these, especially in terms of the local economy and seeks to enhance this role through the establishment of specific objectives for the Plan.

- Agriculture and primary production:
 - Promote areas suitable for agricultural and primary production activities, ensuring that activities are not affected by potential land use conflict, unnecessary fragmentation or the alienation of existing land uses.
 - Agricultural and primary production must be undertaken in a sustainable approach which considers:
 - managing environmental values
 - managing and conserving the productive characteristics and qualities of the land and soils
 - protecting the ecological values associated with waterways
 - minimising weed infestations
- Rural landscape:
 - Protect the scenic values of the rural landscape and environment and encouraging development to be unobtrusive and sympathetic to the surrounding rural setting.
 - Maintain and enhance existing vegetation to provide buffers and landscaped visual relief within rural areas.

3. Submitting a Development Application

3.1 Your development application requirements

The statutory requirements for the supporting information that must accompany a development application are in Schedule 1, Part 1 of the *Environmental Planning and Assessment Regulation 2000*. Council's website also details the necessary additional steps required in preparing a development application.

3.2 The benefits of engaging professionals

In most cases engaging the services of professional consultants will not only enhance the quality of the development but will assist in gaining the necessary approvals from the decision making agencies.

The option for engaging consultants will vary depending on the complexity of the project. However, the following services are most likely to be required:

- *Architectural and Design Services:* Including architects, interior designers and other design services. Under State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, a registered architect must be used for residential flat buildings comprising 3 or more storeys and 4 or more dwellings.
- *Tradespersons:* A range of options exists for the management and responsibility of project construction. Generally, a tradesperson will be employed to take full responsibility for all the various stages and trades. Alternatives include owner-builder construction and subcontracting.
- *Engineers:* For site services, structural considerations, particularly if the project involves alterations to an existing building.
- *Heritage Advisers:* Many qualified architects, designers or town planners specialise in heritage issues and will be beneficial if the subject site and/or project involves a heritage building or is within a conservation area.
- *Land Surveyors:* Will be required for site surveys and for the lodgement of formal subdivision and strata plans.
- *Landscape Architects:* Will generally be required to successfully design and integrate landscaping within the development.
- *Town Planners:* Will generally be required for the preparation of Statements of Environmental Effect.

3.3 SEPP (Building Sustainability Index: BASIX) 2004

Council will not accept a development application for the following types of development without the submission of a BASIX certificate, as required under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004:

- a development containing one or more dwelling,
- for alterations or additions with a value greater than \$ 50,000, or
- for pools or spas with a capacity greater than 40,000 litres or more.

Minor developments, including garages, storerooms, carports, gazebos, verandahs and awnings, will be exempt from BASIX.

3.4 Statement of Environmental Effects

In addition to the development application form, a Statement of Environmental Effects (SEE) must be submitted with all development applications. A SEE sets out details of the proposal and addresses all relevant issues. The SEE may, where necessary, refer to diagrams, models, photographs and other graphic material.

In summary, a SEE must outline and address the following matters:

- the environmental impacts of the development,
- how the environmental impacts of the development have been identified,
- the steps to be taken to protect the environment or to lessen the expected harm to the environment, and
- any matters required to be indicated by any guidelines issued by the Director-General for the purposes of this clause.

For all developments, the SEE should specifically include the following:

- details of compliance (or non-compliance) with all relevant development controls and principles contained in the LEP and this Plan,
- suitability of the land for development (for e.g. flooding, drainage),
- proposed traffic impact – access, adequacy of existing roads, traffic generation, adequacy for any loading, unloading, turning and parking,
- proposed landscaping of the site and whether any existing trees should be retained,
- the physical character, location, siting, bulk, scale, shape, size, height, density, design and external appearance of the proposed development,
- the siting of any building or works on the land and their relation to development on neighbouring land (especially consider overlooking and overshadowing),
- impact on the landscape, streetscape and scenic quality of the locality,
- the existing and likely future amenity of the neighbourhood,
- whether existing utility services are adequate to serve the development (i.e. water, sewerage, electricity, stormwater drainage, telephone) or whether services are available,
- on-site disposal of waste (this will require submission of a separate study addressing this matter),
- the impact on the natural environment,
- the impact on the built environment or items of natural heritage,
- social and economic effects of the development,
- any special heads of consideration in regard to, for example, heritage, water catchment, environmentally sensitive areas, and
- any special issues relating to the site or locality.

Commercial, Industrial and Rural development

In addition to the above information, the following is required:

- type of business, nature of goods and services, volume of goods produced, handled and stored,
- hours and days of operation,
- plant, machinery and equipment used,

- number of employees,
- potential number of visitors including customers, deliveries, sales representatives,
- proposed parking, access, manoeuvring and traffic generation, loading/unloading arrangements,
- waste disposal arrangements,
- impact on any residential development in the vicinity,
- anticipated noise levels beyond the site,
- availability of utility services, and
- anticipated future expansions, if any.

3.5 Site plans

A site plan must be submitted for all development applications. The site plan must be drawn to scale with all dimensions indicated. Detail to be included on the site plan includes:

On-site features

- legal property description – Lot, Deposited Plan (DP), street number (if available), street name and location,
- land dimensions – area, boundary dimensions, distance from boundary of proposed development (all details to be in metric and shown on the plan),
- contours/topography provided as a survey plan showing levels to Australian Height Datum (AHD),
- existing vegetation (species name and size),
- existing buildings and buildings to be retained/demolished,
- location of any proposed new buildings or alterations and additions to existing buildings,
- vehicle access, parking and turning areas (including construction details),
- views from the site/existing building,
- drainage and services (location of existing and proposed),
- orientation and micro climate,
- filled/proposed filled area and any contaminated soils,
- fences, boundaries and easements,
- any other notable features, e.g. waterways/dams (natural and man-made), and
- north point (true north) and scale.

Offsite features

- location and use of adjacent buildings,
- adjoining private open space,
- windows of habitable rooms of adjoining dwellings along the shared boundary,
- views and solar access of adjoining dwellings,
- existing view corridors from the public domain,
- significant trees on adjoining properties,
- location and height of walls built to the site boundary,
- street frontage features and streetscape, and
- difference in levels between the site and adjoining properties.

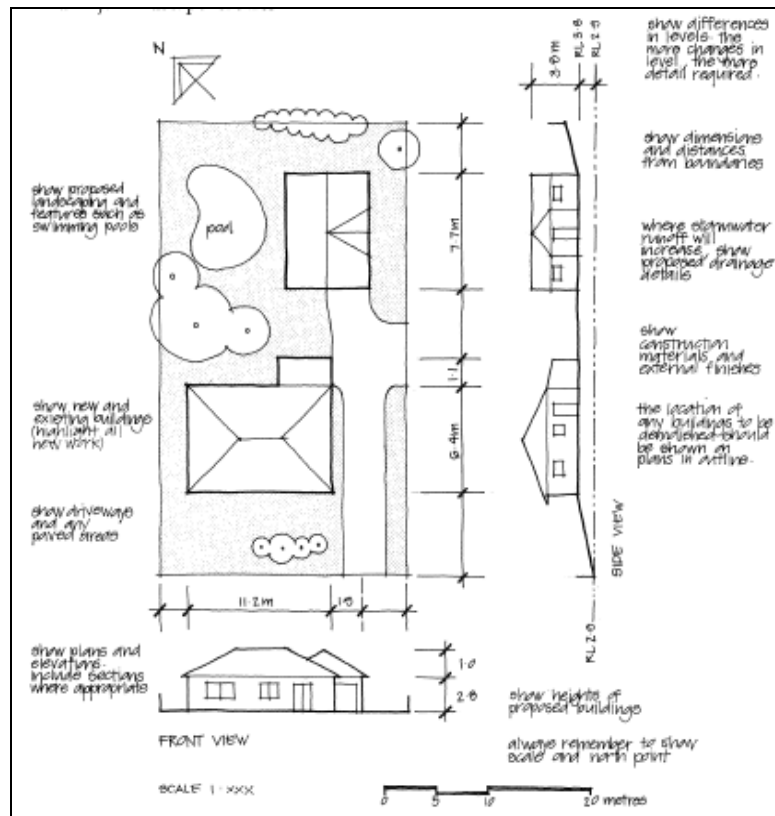


Figure 1 – Sample Site Plan (Residential)

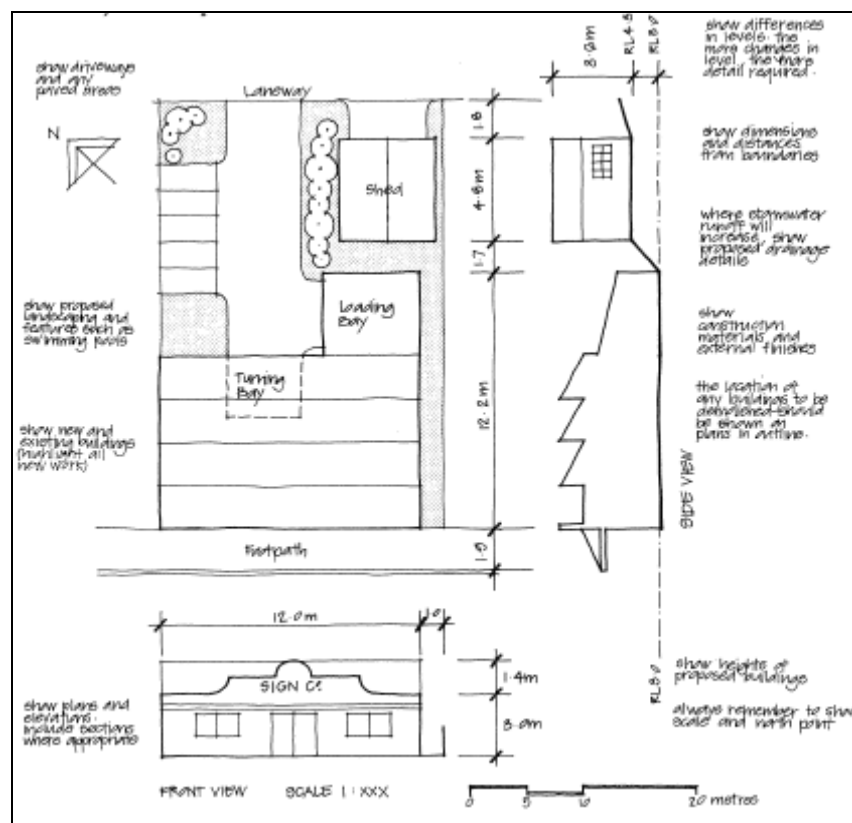


Figure 2 – Sample Site Plan (Commercial/Industrial)

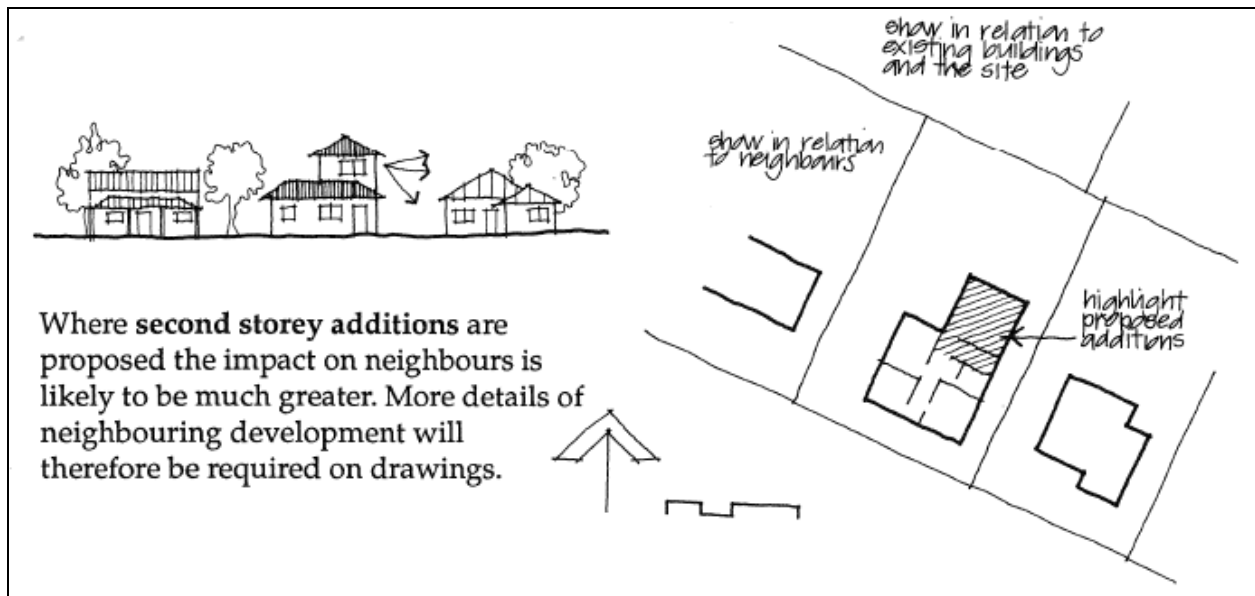


Figure 3 – Sample Site Plan – Additions and neighbour impact

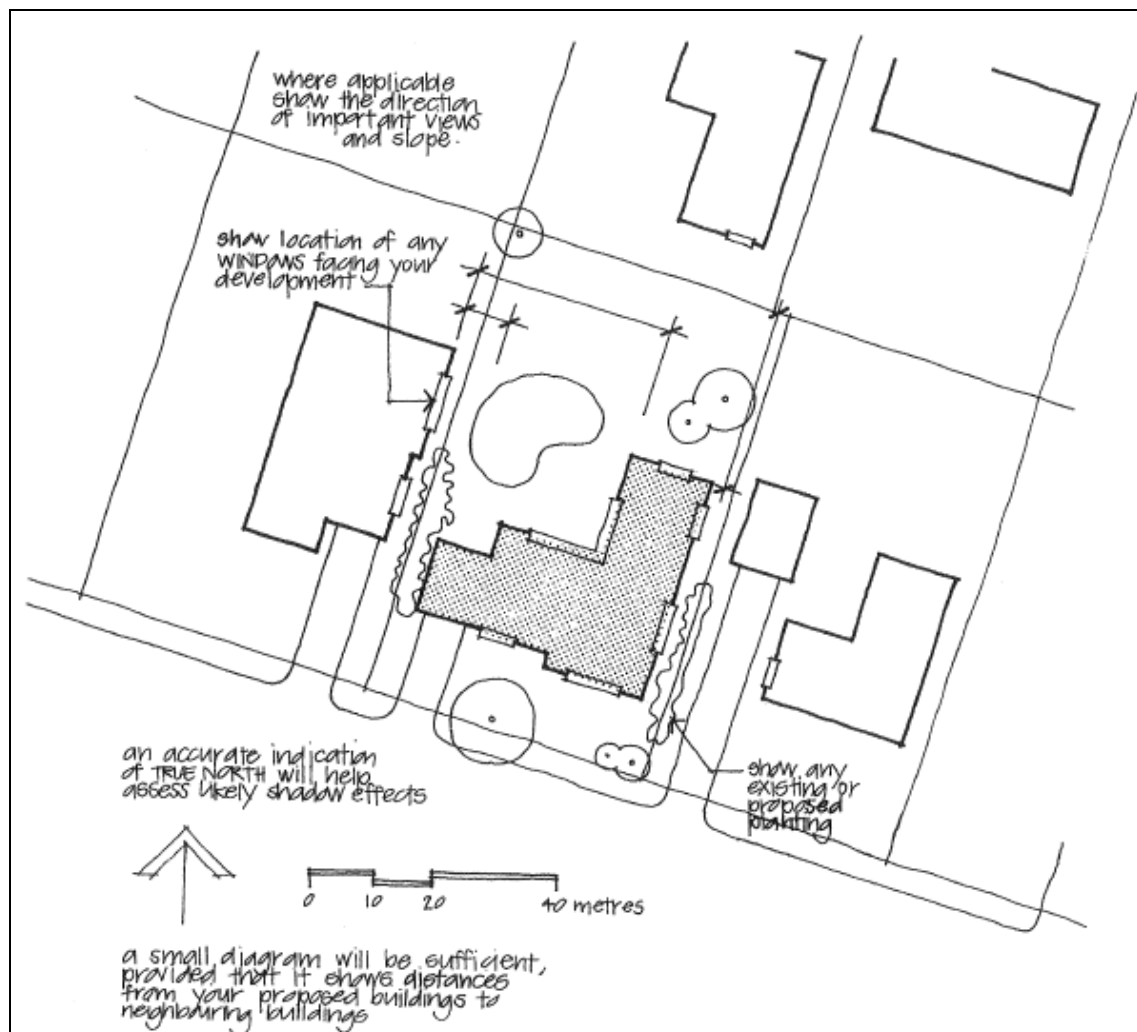


Figure 4 – Sample Plan – Existing features on-site and adjoining (Residential)

In preparing development proposals, it is useful to undertake a site analysis. Key considerations in a site analysis are set out in the following table:

Table 1: Site Analysis

The Site	The Surrounds
<ul style="list-style-type: none"> • Site dimensions and site area • Spot levels and contours • Easements for drainage and services • Location of existing vegetation, including the species, height and spread of established trees and a statement of vegetation significance • Location of buildings and other structures • Natural drainage/drainage lines • Heritage features including archaeology • Orientation, micro climates and significant noise sources • The orientation of true solar north, and a range of 30° east and 20° west of true north • Views to and from the site • Pedestrian and vehicle access • Identification of previous use and any contaminated soils or filled areas • Location of fences (including height), boundaries and any other notable features (natural or historical) • Prevailing seasonal winds, sun and shade characteristics • Overshadowing of the site by neighbouring structures • Other constraints including sewer lines, right of ways and watercourses • North point • Scale 	<ul style="list-style-type: none"> • The location, height and use of adjoining buildings (including location of any facing doors and windows) and out-buildings • The built form and character of adjacent and nearby development, including characteristic fencing and garden styles • Adjoining secluded private open spaces and living room windows which have outlooks towards the site • The heritage significance of surrounding buildings and landscape • Characteristics of any adjacent public open space • Location and height of walls built to the site boundaries • Views and solar access enjoyed by adjacent residents • Trees on adjoining and adjacent properties • Street-frontage features such as poles, street trees, kerb crossovers, bus stops and other services • Directions and distances to local shops, schools, public transport, parks and community facilities • The difference in levels between the site and adjacent properties at their boundaries • Sources of nuisance such as flight paths, noisy roads or industries and the like

3.6 Floor plans, elevations and sections

Floor plans and elevations must be submitted for all development applications. Sections are required where there are intended earthworks (cut and fill). Such plans must be drawn to scale with all dimensions shown.

Details to be included on these plans include:

- layout of the proposal – use of each room/area,
- all building elevations,
- heights of proposed development to be clearly indicated on all plans,
- construction materials and external finishes, and
- sections of building/s and site (as required) showing proposed cut and fill, including details of proposed materials.

3.7 Landscaping plans

For a new commercial or industrial building, a new dwelling house, dual occupancy housing, multi-unit housing, or major alterations and additions, it is necessary to submit a landscaping plan. The amount of detail contained in landscaping plans depends on the issues relating to the particular site, and shall include the following details:

- existing vegetation and vegetation proposed to be retained (giving species name and size),
- all proposed landscaping structures, such as pergolas, decks, courtyard walls etc,
- existing and proposed contours of the site,
- overshadowing from existing and proposed structures,
- any areas where there may be privacy impacts to and/or from the proposal,
- measures to minimise structural impacts to buildings caused by vegetation growth,
- a schedule of existing and proposed species and details of why these are chosen, and
- reasons for removal of significant vegetation.

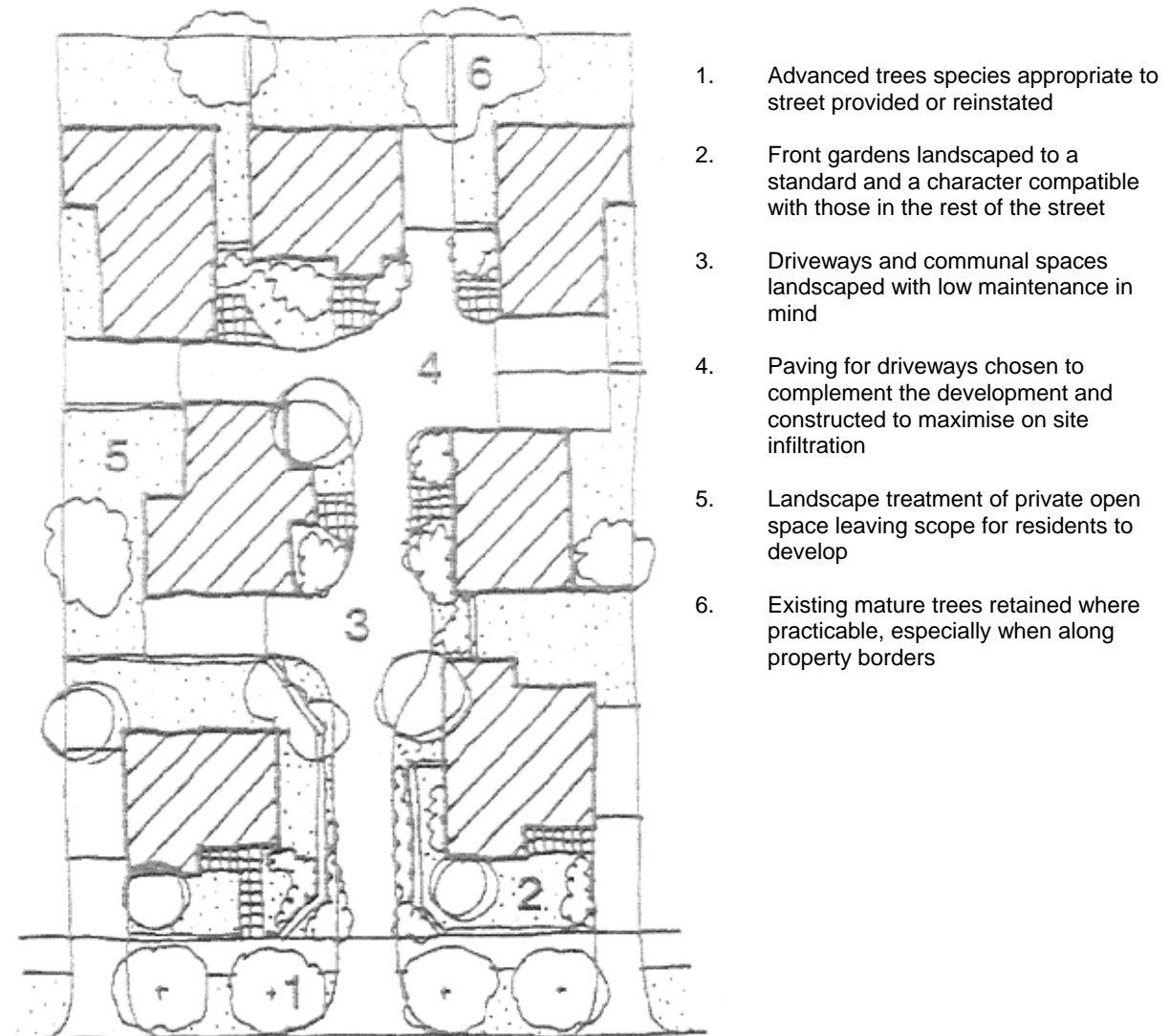


Figure 5 – Sample Landscape Plan

3.8 Solar access and shadow diagrams

Shadow diagrams are to be included as part of the development application except where:

- a proposal does not change the external building form, or
- the dwelling house is single storey and no greater than 600 mm above natural ground level, or
- the dwelling house is located in a RU1 Primary Production or RU2 Rural Landscape Zone.

Shadow diagrams should clearly show the shadow impacts of the proposed development. The plans should be at the same scale as the site plans and elevations and should include the following details:

- North point (true north),
- Scale,
- position of existing and proposed buildings,
- position of buildings on adjoining land,
- shadows cast during the winter solstice for 9.00 am, 12 noon and 3.00 pm,
- change in shadows from existing to proposed development,
- if the proposal is likely to overshadow the windows of an adjoining building, provide an elevation to show these shadow impacts cast on walls and windows, not just those falling on the ground, and
- for larger development, models, perspectives or photo-montages may be requested by Council.

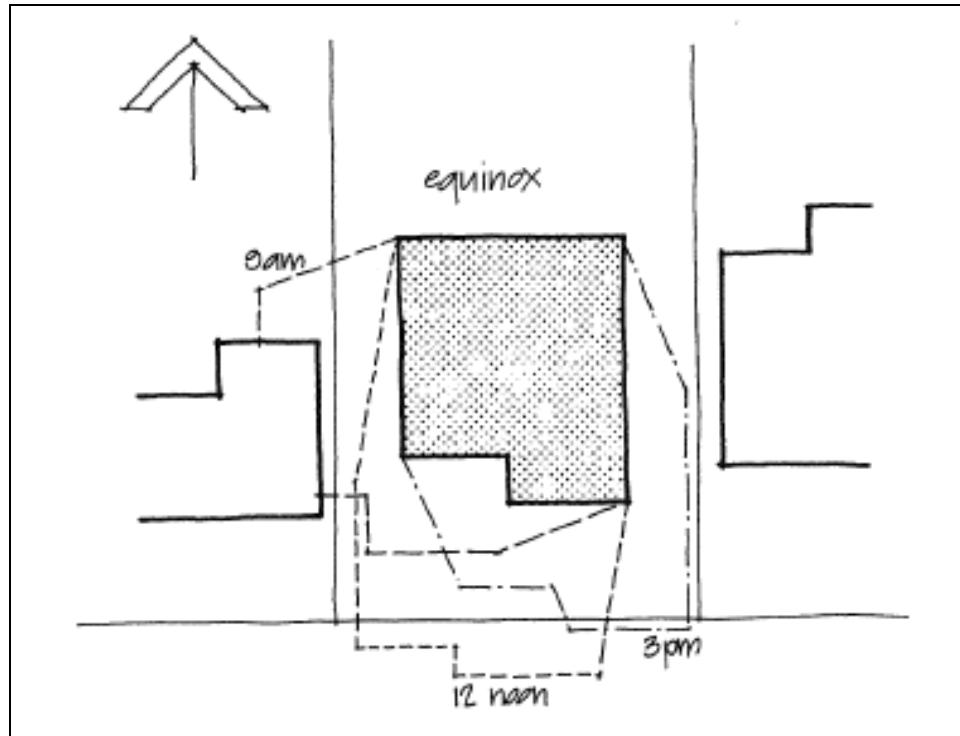


Figure 6 – Sample Shadow Diagram plan

Path of the sun in summer and winter

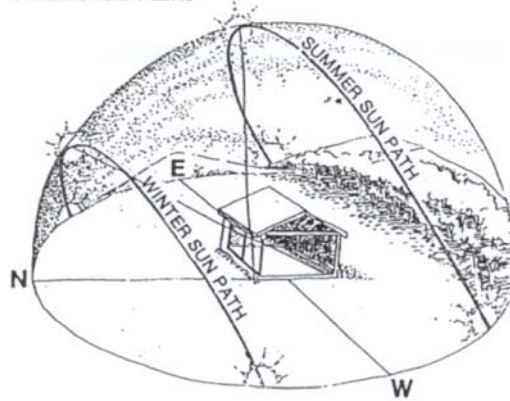


FIGURE 2

An elongated house facing North can be shaded from the summer sun by overhanging eaves and warmed by the deeply penetrating winter sun

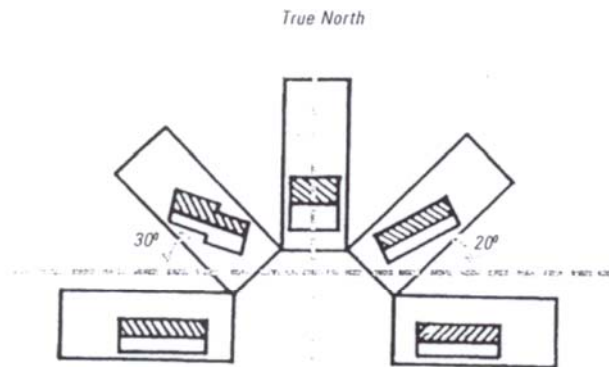


FIGURE 3

Source: AMCORD (1995) p. 188

Best Orientation of Buildings

Shaded areas indicate location of main living areas

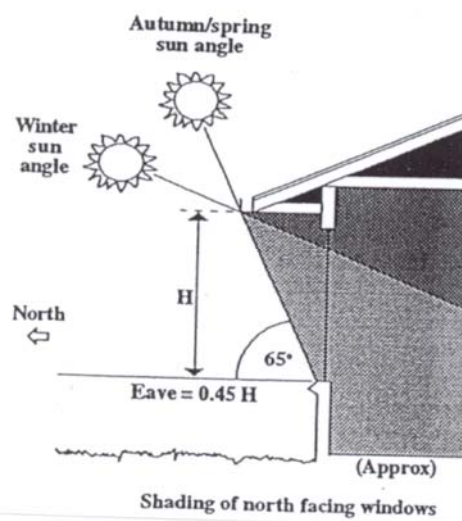


FIGURE 4

Figure 7 – Sample Solar Access plans

3.9 Heritage items

If the building is a Heritage Item or is in the immediate vicinity (on the same or adjoining lot) of such an Item, a Heritage Impact Assessment or similar level of detail is to be provided outlining the potential impact on the heritage values and how the potential impact will be appropriately managed. Refer to Section 4.3 of this Plan for more detail.

3.10 Erosion and sediment control

Certain developments require the implementation of appropriate erosion and sediment control measures. Depending on the scale of development, different provisions are required to be incorporated in plans submitted with the development application.

- For development of a single detached dwelling, a plan of proposed works and control measures is required to be prepared, with erosion and sediment control measures in accordance with the document *Planning for Erosion and Sediment Control on Single Residential Allotments* (Landcom, 2004).
- For all other development that has a disturbed area, an Erosion and Sediment Control Plan is required to be prepared in accordance with *The Blue Book – Managing Urban Stormwater: Soils and Construction* (Landcom, 2004).

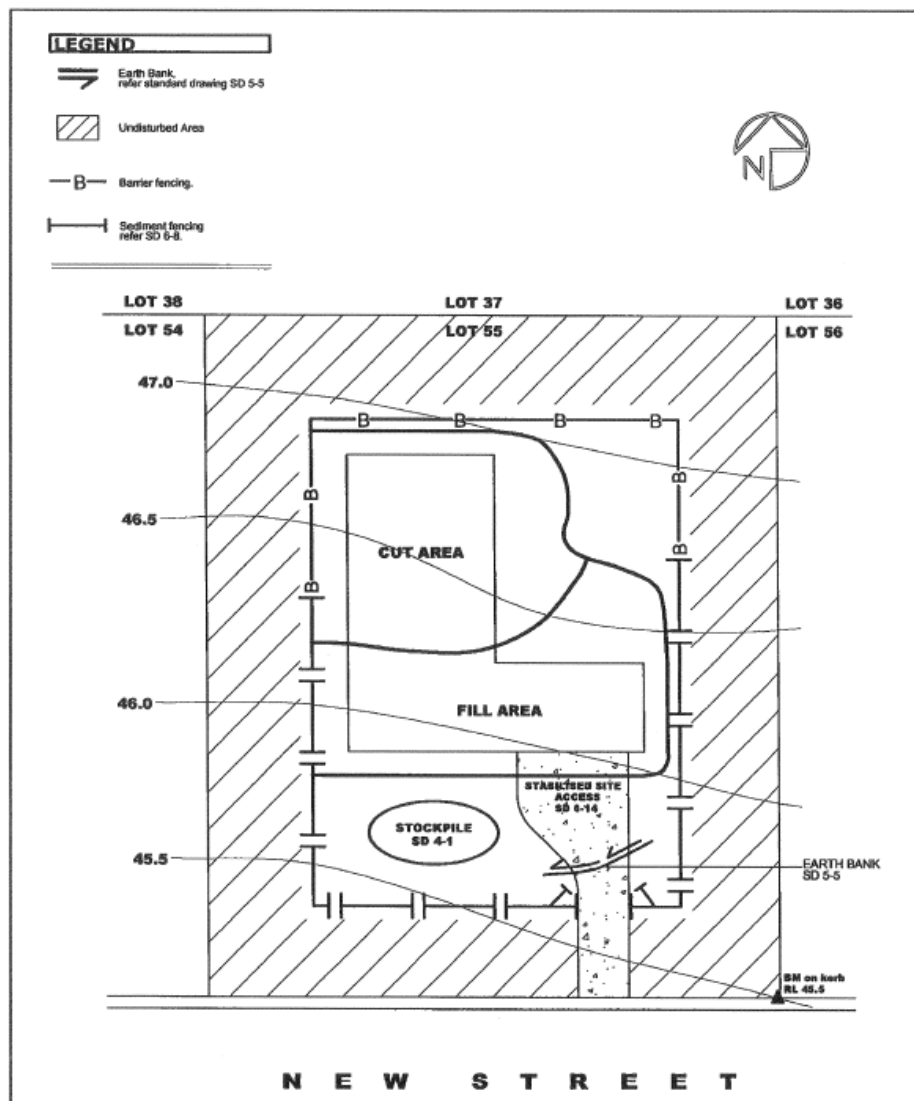


Figure 8 – Sample Soil Erosion and Sediment Control plan

Source: Landcom brochure *Planning for Erosion and Sediment Control on Single Residential Allotments*

3.11 On-site waste water management

In addition to the site plan requirements, the following information is required for on-site waste water management systems. This information is to be supported by a Geotechnical Report and a system design, both prepared by a suitably qualified professional.

3.11.1 Grey water and black water systems

When a grey water or black water system is proposed, the following additional information is to be supplied:

- system location,
- system size,
- grey water or black water end uses,
- pump location & insulation,
- overflow locations, and
- NSW Department of Health Accreditation.

3.11.2 Infiltration

When an infiltration system is proposed, the following additional information is to be supplied on a plan:

- volume and dimensions of the proposed system, and
- setbacks of the infiltration system away from all buildings and property boundaries.

3.11.3 Pump systems

When pump systems are proposed, the following additional information is to be supplied in a table:

- number of pumps,
- size of storage pit,
- point of discharge to the street system, and
- evidence indicating that an easement cannot be obtained at a reasonable cost from the downstream property owner(s).

3.12 On-Site Stormwater detention

When on-site detention (OSD) of stormwater is proposed, the following additional information is to be supplied in a table:

- existing pervious and impervious areas (pre development),
- proposed pervious and impervious areas (post development),
- areas of the site draining through the OSD storage (both pervious and impervious areas),
- areas of the site not draining through the OSD storage (both pervious and impervious areas),
- location for OSD storage surcharges,
- volume of the OSD storage,
- available head of water above the orifice plate outlet (maximum water level minus centre of orifice level), and
- cross-sectional area of the orifice plate.

3.13 Water tanks

When a water tank is proposed, the following information is required in addition to the information required in Section 3.12:

- number of tanks
- tank/s location
- tank height/s
- tank size/s
- water end uses
- pump location and insulation
- overflow locations, and
- other relevant characteristics, such as colour for heritage sites

Note: Refer to Schedule 2 of the LEP and *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* to confirm Exempt Development.

3.14 Notification

Notification Guidelines are available from Council's Environment and Planning Department which provide more detail in regard to the notification and public exhibition process for development applications.

3.14.1 Objectives

- To clearly demonstrate the process for notification and/or public exhibition of development applications under various circumstances
- To provide an opportunity for public involvement in the development process
- To ensure that the views of interested persons are considered before determining development applications

3.14.2 When these provisions **do not** apply

These provisions *do not* apply to the following types of development:

- (a) Exempt development (see Schedule 2 of the LEP)
- (b) Complying development (see Schedule 3 of the LEP)
- (c) Dwelling houses and additions to dwelling houses that:
 - (i) are consistent with the primary purpose of the zoning
 - (ii) are single storey
 - (iii) comply with Council's building line setbacks
 - (iv) comply with the *Building Code of Australia*, unless walls are built closer than 900 mm to the boundary, and
 - (v) have no other dwelling houses located on the same allotment
- (d) Proposals not considered to have a significant adverse effect on neighbours or in terms of:
 - (i) the views to and the view from surrounding land
 - (ii) potential overshadowing of surrounding land
 - (iii) privacy of surrounding land
 - (iv) potential noise transmission to the surrounding land

- (v) the likely visual impact of the proposed building in relation to the streetscape
- (vi) the scale or bulk of the proposed building
- (vii) proposed hours of use
- (viii) potential light spillage or reflection
- (ix) potential traffic generation, and
- (x) means of vehicle access to and provision of parking on the application site

3.14.3 Notification and advertising requirements

(a) Types of development that must be notified

- All Designated Development (as defined in Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*)
- Advertised development including:
 - (i) State Significant Development as referred to in section 76A(7) of the *Environmental Planning and Assessment Act 1979*
 - (ii) certain types of Integrated Development as defined in clause 5 of the *Environmental Planning and Assessment Regulation 2000*, and
 - (iii) Advertised development as identified in *Environmental Planning and Assessment Act 1979*:
 - Activities that are inconsistent with the primary purpose of the zoning
 - Animal boarding or training establishments
 - Brothels
 - Community title development
 - Dual occupancy
 - Intensive horticulture
 - Intensive livestock keeping establishments
 - Major commercial and industrial works
 - Multi unit development
 - Non residential uses in residential areas, and
 - Offensive/hazardous industries
 - Recreation facilities
 - Second storey residential additions and alterations
 - Subdivisions creating new roads
 - Urban and rural subdivisions greater than 5 lots
 - Wind Farms
 - Development that the Director of Environment and Planning determines shall be notified

3.14.4 Notification period

The plans relating to a notified development application may be inspected and submissions must be received at Council within 10 working days of the date of notification. For an Advertised development, notification shall be in accordance with the *Environmental Planning and Assessment Regulation*. It should be noted that Council may resolve to vary the length of a notification period.

3.14.5 Form of submissions

Submissions made regarding notified or advertised applications must be in writing and addressed to the General Manager.

Submissions must clearly indicate the name and address of the person or body making the submission and details of the proposal to which the submission relates.

3.14.6 Consideration of submissions

- (a) The Council will consider all submissions received within the notification period before determining the application.
- (b) Council will consider all relevant issues raised in submissions.
- (c) Council will give notice of the determination of the application, to each person or body who made a submission.

3.14.7 Definitions relevant to notification

adjoining land – land that abuts other land or is separated from it only by a pathway, driveway or similar thoroughfare (including properties adjoining by a corner boundary)

owners – as determined by Council from its property ownership records at the time of notification

Council – Upper Lachlan Shire Council

height – a vertical line measured from natural ground level to the ridge of the building

land – includes any building or part of a building constructed on the land.

neighbouring land – any land, other than adjoining land, which in the opinion of Council, may be detrimentally affected by a development proposal

working day – a day in which Council offices are open for normal business

single storey – construction that has an internal wall height (floor to ceiling) of no more than 3.0 metres and construction that has a maximum ridge height of 6.0 metres above natural ground level or finished ground level (whichever is the greater)

two storey – includes construction that:

- has no more than two floors directly above each other
- that has internal wall heights of no more than 3.0 metres, and
- that has a maximum ridge height of 8.5 metres above natural ground level or finished ground level whichever is the greater.

3.15 Construction Certificate stage

The following information shall be submitted with the Construction Certificate (CC) application.

General

Plans and details showing:

- as constructed detail design plans,
- building footprints and floor levels,
- surrounding overland spot levels,
- the internal drainage system showing pits and pipes,
- cross sections and/or long sections through tanks, pits and trenches,
- the catchment area draining to each drainage structure,
- locations and levels of the discharge points for each drainage structure,
- overflow structures and surcharge paths for each drainage structure, and
- certification, from a suitably qualified professional, that the stormwater system has been designed in accordance with the development approval.

3.16 Waiving of development application fees

Requests for the waiving of development application fees must occur in accordance with Council's adopted policy – *Development Application Fee Waiver Policy*.

3.17 Community Enhancement Program

To provide guidelines in respect to State Significant development regarding the level of monetary contribution and operation of a Community Enhancement Program (CEP) within the Shire.

Council seeks to maximize the opportunity afforded by development proposals to enhance the Community's quality of life and well being.

Some State Significant projects have the potential to portray or impart a negative effect on the attractiveness of the Shire to potential and existing residents. In an effort to offset the potential negative effects of some of these developments, Council proposes to implement a CEP.

In *Taralga Landscape Guardians Inc v Minister for Planning and Ors* (2007) 161 LGERA 1 the Court recognised that the balancing of public and private interests was a central aspect of the decision-making process and said:

“Resolving this conundrum – the conflict between the geographically narrower concerns ... and the broader public good of increasing a supply of renewable energy – has not been easy.”

In *Gullen Range Wind Farm Pty Limited v Minister for Planning* [2010] NSWLEC 1102 both the Department of Planning, at first instance, and later the Court required the proponent to develop and implement a Community Enhancement Program.

Similarly, it is not uncommon for the Department of Planning with Major Projects to require a proponent to enter into a planning agreement to provide a Community Enhancement Program.

Through its Community Enhancement Program, Council aims to:

- address issues directed at improving the quality of life for the people of the Shire, and

- be prepared to advocate for reasonable contributions towards the provision of community facilities and services from developments having a significant social impact on the community

Implementation

Council will be the custodian of the funds and to distribute and expend the funds in accordance with the Local Government accounting regulations.

Projects will be prioritised on a consensus basis and recommended to Council by a Committee comprising:

- Mayor – Upper Lachlan Shire Council or Councillor Delegate
- General Manager – Upper Lachlan Shire Council
- Two (2) Non-host Community Representatives – living within close proximity of the project
- Authorised Representative of Funding Organisation (if required) or alternatively a Host Community Representative

Council will submit to the State Government that any approvals granted for major developments address their adverse local effects. These developments have the Minister for Planning as the consent authority.

Council will aim to ensure that developments make tangible contributions to local community development through contributions to the CEP. These contributions will take the form of monetary contributions.

(a) Major Projects/Developments

Council will aim to allocate contributions to projects in areas located within 10 kilometres of a Major Project/Development. Other projects greater than 10 kilometres will be considered on their merits.

Council will publicly advertise in the Council Voice newsletter and in the local newspapers the availability of funds on an annual basis generally during February/March each year to call for submissions from the public/community groups/interested bodies, etc for specific projects.

Subject to these submission(s), Council will determine (following a recommendation from the Committee) which project(s) are funded based on the available funds and the nexus of the location of the requested project(s) to the contributing Major Project/Development and advertise them in the draft annual Operation Plan (which may include any proposed operational or capital projects) in the Council Voice newsletter and in the local newspapers for public comment for a period of at least 28 days.

Council will subsequently adopt the draft Operational Plan (if any proposed operational or capital projects are to be funded and subject to any changes due to public comments/submissions) which becomes the program to be completed during the forthcoming financial year.

Council will publicly acknowledge the contribution from the Major Project/Development in the Council Voice newsletter and in the local papers for projects where appropriate and a permanent sign can be erected recognising the funding if required.

In some circumstances Council will make direct financial contributions to service providers through one off donations or ongoing support.

Council will consider joint ventures with other local government, State and Federal governments as well as community organisations and facilities.

The following is provided in regard to specific Major Projects/Development types:

(i) Wind farms

The form of condition which is proposed is as follows:

“Financial Contribution to Upper Lachlan Shire Council for Community Enhancement”

Prior to the commencement of construction, the Applicant shall enter into a planning agreement with Upper Lachlan Shire Council in accordance with Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* for a financial contribution to Council for the purpose of community enhancement to mitigate the social, amenity and associated community infrastructure requirements emanating from the operation of the development.

The Applicant shall each year contribute the minimum rate of \$2,500 per constructed turbine to the Community Enhancement Program, commencing upon the commissioning of the project until the end of its life. The contribution shall be adjusted to take account of any increase in the Consumer Price Index for Sydney (Housing) over time, commencing at the June 2011 quarter.”

The legally binding agreement shall take the form of the agreement provided at Appendix A – Wind Farm Planning Agreement.

Contributions

Council has adopted an annual contribution of \$2,500 per turbine per annum (indexed to the CPI for Sydney (Housing) commencing at the June 2011 quarter) in respect of wind farms.

These and other contributions are expected to be subject to negotiation with Council.

(ii) Power Station developments

The form of condition which is proposed is as follows:

“Financial Contribution to Upper Lachlan Shire Council for Community Enhancement”

Prior to the commencement of construction, the Applicant shall enter into a planning agreement with Upper Lachlan Shire Council in accordance with Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* for a financial contribution to Council for the purpose of community enhancement to mitigate the social, amenity and associated community infrastructure requirements emanating from the operation of the development.

The Applicant shall make a one-off contribution of 1.5 percent of the total capital cost of each Power Station development to the Community Enhancement Program prior to the commissioning of the project.”

The legally binding agreement shall take the form of the agreement provided at Appendix B – Power Station Planning Agreement.

Contributions

Council has adopted a one-off contribution of 1.5 percent of the total capital cost of each Power Station development.

These and other contributions are expected to be subject to negotiation with Council.

4. General Development Controls

This Section of the Plan identifies the general development controls that need to be considered and responded to as a part of a Statement of Environmental Effects (or Environmental Impact Statement in the case of 'Designated Development'). It applies to all development proposals and development applications must include a response to the items identified in this Section.

The main objectives adopted by this Plan for any development proposal are to:

- respect and respond to the natural environment of the locality,
- promote ecological sustainable development, ensuring a balance between economic, social and environmental outcomes,
- ensure that new development integrates with the character of existing development,
- ensure that development proposals maintain and enhance natural environmental values and visual (aesthetic) character,
- respect Indigenous and non-Indigenous heritage values, and
- promote open space and open space corridors, respect privacy and ensure public safety.

To achieve these objectives, technical assessments will need to be undertaken to identify potential impacts and to propose specific management of these potential impacts. These assessments should include (where relevant):

- environment,
- design,
- heritage,
- flooding and stormwater,
- traffic and car parking, and
- land use.

4.1 Matters for consideration

4.1.1 Matters for consideration (General)

- (1) Development consent must not be granted to an application to carry out development on land within Zones RU1, RU2, RU4, RU5, R2, R5, B2, B4, IN2, RE1, E2 and E3 unless the consent authority is satisfied that the matters under subclause (2) have been addressed.
- (2) Relevant matters for consideration are:
 - (a) the present use of the land for the purposes of agriculture and the potential of any land which is zoned RU1 or RU2 for sustained agricultural production, and
 - (b) the impact of the development on the retention or embellishment of the rural character or environmental value of the land, and
 - (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, or extractive materials, and
 - (d) the standard and capacity of public roads serving the land, and
 - (e) the need for all-weather access to the development, and
 - (f) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created, and

- (g) whether the land can be economically serviced by reticulated sewer and water supply and the cost of providing, extending and maintaining public amenities and services, including electricity, to the development, and
- (h) the availability of an adequate reticulated water supply and, where such a supply is unavailable, the source and capacity of any alternate water supply intended to service the needs of the development, and
- (i) in unserviced areas:
 - (i) the findings of a geotechnical report/permeability test to ascertain whether the land has adequate capability for onsite disposal of waste water and the potential impact of such disposal on any groundwater supplies used for drinking and domestic consumption (if located within the Sydney drinking water catchments, the findings of such a report must address *Drinking Water Catchments Regional Environmental Plan No 1*, and
 - (ii) the results of a detailed analysis demonstrate the suitability for on-site disposal of wastes from the lots to be created, where that analysis has included consideration of: shape, ground cover, transpiration factors, the proximity of the proposed dwelling to drainage lines, the location of the proposed dwellings in relation to a proposed onsite wastewater disposal system and to each other, and the composition of the soil.
- (j) the availability of other utility services and social facilities having regard to the likely demand for those services or facilities and the cost of their provision, and
- (k) the implications of a future dwelling house on adjoining existing primary industry landuses, and
- (l) the impact on the rural and scenic character of the area.

4.1.2 Matters for consideration (Subdivision)

- (1) Development consent must not be granted to the subdivision of land within Zones RU1, RU2, RU4, RU5, R2, R5, E2 and E3 unless the consent authority is satisfied that the following matters have been addressed.
 - (a) Whether the ratio of depth to frontage of each proposed allotment is adequate, having regard to:
 - (i) the purpose for which the allotment is intended to be used,
 - (ii) minimising the creation of vehicular access points to main or arterial roads,
 - (iii) the location of vehicular access points from the allotment in a safe position, and
 - (b) Whether the subdivision will create or increase potential for ribbon development along any road, particularly a main or arterial road, and
 - (c) The siting of roads in relation to topography, drainage and soil erodability.
- (2) Development consent must not be granted to the subdivision of land to which this plan applies unless the consent authority is satisfied that the applicant has made a submission addressing all relevant information having regard to following matters:
 - (a) the primary purpose for which each allotment to be created is intended to be used, and
 - (b) whether any allotment to be created is intended to be used primarily for the purpose of a dwelling, and
 - (c) whether a dwelling is intended to be erected on any allotment to be created and the approximate location of any such dwelling.

4.2 Environment

4.2.1 Tree and vegetation preservation

Objective

To ensure trees and vegetation that contribute to the environmental and amenity value of the region are preserved.

Controls

Clause 5.9 of the LEP applies to all trees and shrubs on land that contains a Heritage Item and land identified as of ecological significance (mapped environmental values as High Conservation Values and Medium Conservation Values) and mapped wetlands.

A tree is defined as a plant with:

- one or more self supporting trunks, any one of which has a circumference of 30 centimetres or more (at a height of 40 centimetres above existing ground level), or
- a height of 2.5 metres or more, or a branch spread of more than 2.5 metres.

A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree identified above without the authority conferred by development consent or a permit granted by the Council.

Any removal of native vegetation including trees, shrubs and other vegetation that occurs in an area zoned non-urban and non-industrial, may require consent under the *Native Vegetation Act* unless an exemption applies.

4.2.2 Waterways, water bodies and wetlands

Objective

To maintain and enhance the ecological values of waterways and wetlands, including water quality, stream integrity, biodiversity and habitat, within the Shire.

Controls

There should be no changes to the hydraulic regime (diversions or changes to the channel) of a wetland or waterway. Changes to the hydraulic regime are only supported where appropriate for the natural enhancement of the wetland or waterway (i.e. improving environmental values).

The ecological integrity of wetlands and waterways must be maintained. Development must not significantly impact on flora, fauna, habitat or other ecological values associated with the wetland or waterway.

All stormwater being discharged into a wetland or waterway must be appropriately treated prior to discharge to ensure no significant impact on the receiving waters.

Note: Refer to clause 6.4 of the LEP.

Advisory Notes

1. (1) Excavation of material from the bed or banks of a waterbody,
- (2) depositing any sand, soil, rock, rubble or other material on the bed of a waterbody,
- (3) constructing a structure (weir, dam, causeway etc) within a waterbody such that the flow of water or free passage of fish may be obstructed, or
- (4) extracting water from the waterway,

may require a permit in accordance with the provisions of the *Water Management Act, Rivers and Foreshores Improvement Act or the Fisheries Management Act*. Please check with the Department of Industry and Investment – Fisheries and Department of Environment, Climate Change and Water.

2. “Degradation of native riparian vegetation along NSW waterways”, “Removal of large woody debris (snags)” and “Installation and operation of in-stream structures and other mechanisms that alter natural flow regimes of rivers and streams” are listed as Key Threatening Processes under the provisions of the *Fisheries Management Act*. Careful consideration is required to be given to the appropriateness of a development proposal that will contribute to a loss or decline in native riparian vegetation, involve the removal of snags or involve the installation or change in operation of an in-stream structure.

Note:

These advisory notes were provided by the Department of Industry and Investment – Fisheries:

- (i) to raise awareness of other approvals that may be required by an applicant seeking development consent from Council and thereby helping to avoid inadvertent breaches of legislation, and
- (ii) to raise awareness of Key Threatening Processes and relevant assessment requirements.

4.2.3 Riparian corridors

Objective

To maintain and enhance riparian buffers to preserve the environmental values associated with waterway and wetlands, having specific regard to fauna and flora habitats and ecosystems, stream integrity (including erosion management), land use impacts and recreational/visual amenity.

Controls

Vegetation buffers should be provided adjacent the high bank of the water in accordance with the following requirements (based on the order of the waterway):

- Strahler Stream Order 1 and 2 – 10 metres,
- Stream Order 3 and 4 – 25 metres, and
- Stream Order 5 – 50 metres.

A riparian buffer of at least 50 metres should be provided around the perimeter of any significant wetland.

All development (buildings, structures, infrastructure, etc.) must be located outside of these buffers.

Existing native vegetation within the riparian buffer should be maintained and enhanced using local plant species.

Note: Refer to clause 6.4 of the LEP.

4.2.4 Groundwater

Objective

These provisions seek to protect and enhance the water quality of groundwater systems as well as identifying and protecting vulnerable groundwater resources from contamination as a result of inappropriate development.

Controls

Applicants must consider the extent to which the development would affect the groundwater resources in terms of the:

- Potential for ongoing impacts through the operation of the development, and
- Adequacy of the measures proposed to avoid, mitigate or remedy any adverse affects of the proposed development.

Development consent must not be granted to development unless the applicant has submitted a report with the development application that addresses, to the satisfaction of the consent authority, the following matters:

- (a) characteristics of the groundwater present in the area,
- (b) any potential risk of groundwater, contamination from on-site storage or disposal of solid or liquid waste and chemicals,
- (c) any potential adverse cumulative impacts on groundwater including the impacts on groundwater extraction for potable water supply or stock water supply,
- (d) a description of any proposed measures to be undertaken to avoid or ameliorate any potential adverse impact, and
- (e) that the extraction is environmentally sustainable, i.e. does not exceed re-charge.

***Note:** Groundwater extraction also requires consent from the NSW Office of Water – Refer to clause 6.4 of the LEP*

4.2.5 Well Head Protection Plans

Objectives

- To ensure high level protection is provided to town water drinking water supplies
- To protect town water supply bores from contamination

Controls

Council is required to develop wellhead protection plans as a component of groundwater management plans for all bores providing water to the towns and villages of the Shire.

The Well Head Protection Plan shall be prepared in accordance with the NSW Groundwater Quality Protection Policy or equivalent policy/best practice.

4.2.6 Biodiversity management

Objectives

- To protect ecological and biodiversity values of environmentally sensitive areas,
- To maintain and enhance significant habitat and ecological corridors, and
- To ensure connectivity between areas of native vegetation and habitat with and external to the site.

Controls

Regional corridors

Existing regional habitat and ecological corridors (local or strategic linkage) are retained and enhanced. Specifically, development will not be supported where development:

- adversely impacts on native vegetation within the corridor,
- reduces the scale and biodiversity of the vegetation within the corridor, or
- limits the function and capacity of the habitat within the corridor.

High and Medium Conservation Value areas

- all native vegetation in medium or high condition should be retained and protected,
- hollow-bearing trees and other important habitat resources, i.e. known or potential feed trees for Glossy Black Cockatoos, should be retained and protected,
- native vegetation and important habitat resources should be appropriately buffered from development and associated activities,
- livestock should be excluded from areas identified as supporting high conservation value (HCV) vegetation or medium conservation value (MCV) vegetation, except where a plan has been developed for 'managed seasonal grazing',
- plant species known to be invasive should not be permitted in any lands that are known to support HCV or MCV vegetation, and
- wherever possible development and activities should be designed to achieve net improvements in biodiversity values i.e. through the protection and enhancement of MCV, HCV and the enhancement of local and regional corridors.

Note: Refer to clauses 6.2 and 6.3 of the LEP

4.2.7 Bushfire risk management

Objectives

- To provide for the protection of human life (including fire fighters)
- To minimise impacts on property from the threat of bushfire, while having due regard to development potential, on-site amenity and protection of the environment
- To afford occupants of any building adequate protection from exposure to a bushfire
- To provide appropriate separation between a hazard and building which, in combination with other measures, prevent direct flame contact and material ignition
- To ensure that safe operational access and egress for emergency service personnel and residents is available
- To provide for ongoing management and maintenance of bushfire protection measures, including fuel loads in asset protection zones (APZ)
- To ensure that utility services are adequate to meet the needs of fire fighters (and others assisting in bushfire fighting)

Controls

All development on land that is classified as bushfire prone land identified on Council's Bushfire Prone Land map must be developed in accordance with the NSW Rural Fire Service *Planning for Bush Fire Protection 2006*.

Development on bushfire prone land will be subject to the requirements of Section 79BA of the Act and Section 100B of the *Rural Fires Act 1997*.

Additionally, the following bushfire matters should be provided for in the planning stages of any development:

- Management regimes for any areas of hazard remaining within the subject area, identifying the level of hazard, potential risk and how the risk can be managed (including asset protection zones).
- Minimising the impact of radiant heat and direct flame contact by separating the development from the bush fire hazard (e.g. setbacks, asset protection zones, etc.).
- Any proposed revegetation should be undertaken such that it does not contribute to an increased bushfire risk to the development/existing development.
- Roads within new development areas are designed to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.

Notes: For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*.

Refer clause 5.11 of the LEP

4.3 Design

4.3.1 Solar access

Objective

Incorporate passive design principles that will contribute to the overall energy efficiency of residential dwellings, reducing energy consumption.

Controls

Residential development is sited to provide for a minimum of three hours of direct sunlight to the main daytime living area of the dwelling and the major part of the associated landscaped open space between the hours of 9.00 am and 3.00 pm on 21 June (winter solstice).

Habitable areas should be designed and positioned within the dwelling to have a northerly aspect. This could be through either a north-south or east-west building orientation.

An appropriate approach to achieving adequate shade in summer and exposure to sunlight in winter occurs where a dwelling has a northerly aspect (including where oriented up to 20 degrees east and 30 degrees west from north).

Building eaves should be designed to respond to the changing micro-climate of the seasons. Eaves on north facing walls should be designed to completely shade windows in summer but allow the sun to shine through in winter. Methods for shading the glass with awnings or vegetation should be considered.

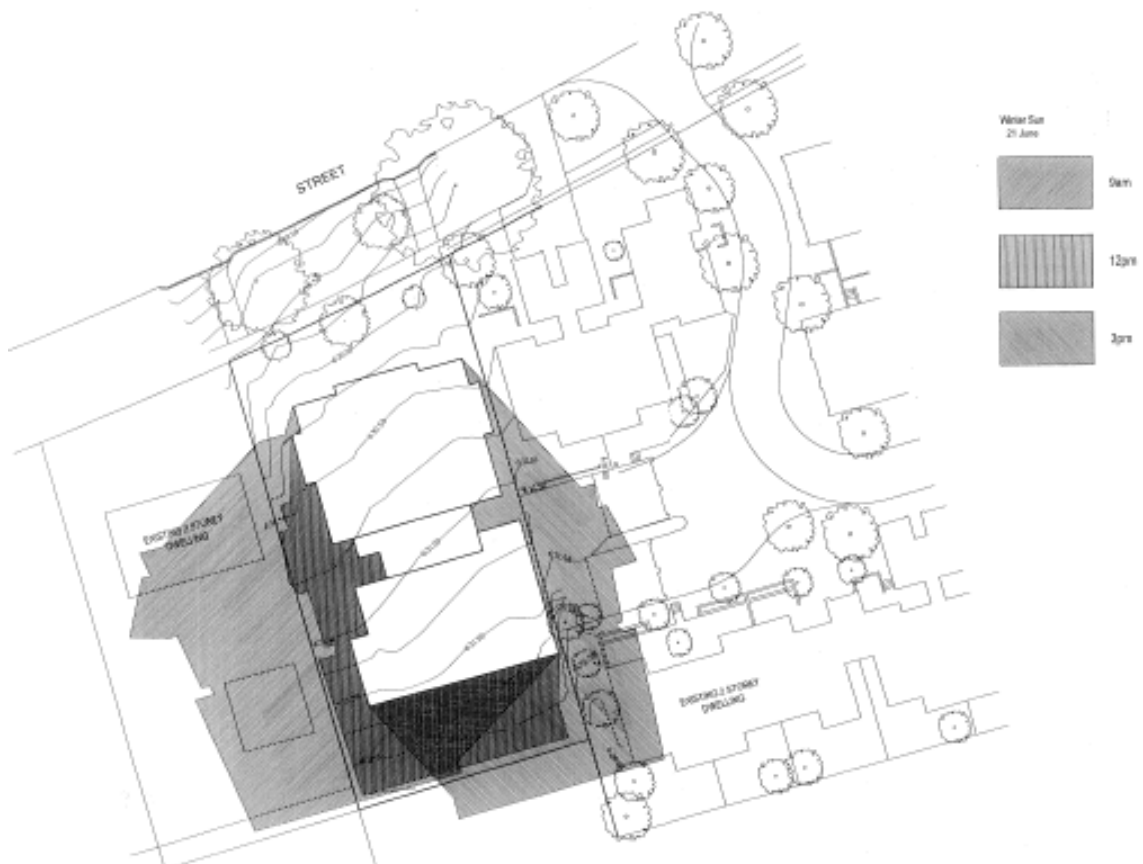


Figure 9 – Sample Solar Access Design plan

4.3.2 Landscaping

Objectives

To ensure that there is landscaping of a high quality for all developments, maintaining the natural character of the Shire.

Controls

- Landscaping as part of a development must:
 - recognise the importance of landscaping to the visual amenity and microclimate of the local area,
 - be sensitive to site characteristics such as streetscape character, landform, existing vegetation, views, privacy and solar access,
 - be designed to highlight natural features such as creeks/rivers, landforms, and the like,
 - be of an appropriate scale to the development and surrounding uses, and
 - minimise effects to overhead and underground services and utilities.
- Landscaping must comprise predominantly of species which are native to the locality,
- Landscaping must not comprise species which are weed species,
- Landscaping must retain vegetation where not removed as a result of any proposed development.

Residential uses

- Residential development must provide:
 - landscaping to the frontage of the site such that it complements streetscape character. This will require a minimum of one street tree,
 - landscaping to provide privacy between dwellings, and
 - landscaping to assist in energy efficiency of the dwelling.

Commercial and industrial uses

- Commercial and industrial development must provide:
 - landscaping to the frontage of the site such that it complements streetscape character,
 - landscaping to screen parking areas and service areas, and
 - lighting to walkways and entries to manage safety and security.

4.3.3 Disability standards for access

Objectives

To ensure equitable level of access and facilities is provided to all new developments and for developments that undertake substantial modification or intensify a use of an existing building.

Controls

Disability Discrimination Act 1992

Development must be consistent with the provisions of the Commonwealth *Disability Discrimination Act 1992* (DDA).

The DDA aims to eliminate, as far as possible, discrimination against persons on the grounds of disability in areas of:

- work, accommodation, education, access to premises, clubs and sport,
- the provision of goods, facilities, services and land,
- existing laws, and
- the administration of Commonwealth laws and programs.

Under the DDA, any area legally accessible to the public must also be accessible to people with a disability. The DDA covers both new and existing buildings as well as places under construction. Applicants proposing to undertake a development should be aware of the requirements of the DDA, the Act and the *Building Code of Australia*.

Building Code of Australia

Development must be consistent with the provisions of the *Building Code of Australia* (BCA). The BCA and the Australian Standards are the basic tools used in respect of access. Both prescribe the minimum standards that must be achieved in new development in order to provide equitable access for people with disabilities. Where a development proposes substantial alterations, the consent authority has the discretion to enforce the provisions of the BCA on existing developments. This enables performance based outcomes for particular buildings, such as heritage buildings.

Australian Standards

The BCA references Australian Standards applicable to the design of equitable access. Designers and planners must consult the BCA to identify Australian Standards relevant to the proposed development and address these in the development application.

Development assessment

Development proposals are required to be consistent with the DDA, BCA and relevant Australian Standards. Both the DDA and the BCA provides scope for performance based solutions for specific circumstances and where proposed, supporting information should be provided in accordance with the specific requirements.

4.3.4 Crime Prevention Through Environmental Design

Objective

To promote design principles which reflect crime prevention through environmental design principles (CPTED). Promoting these design principles will:

- enhance and improve community safety,
- create a physical environment that encourages a feeling of safety,
- address community concerns with regard to issues of community safety and crime prevention, and
- contribute to preventing the opportunity for criminal activity.

Controls

These controls apply to all development proposals on both public and private land. Development that includes the following components needs to consider the design principles in the context of natural surveillance, natural access, territorial reinforcement and target hardening:

- open space and community areas (including design of children's play areas, lighting and signage),
- built form (including interface between buildings and public realm, choice of materials), and
- access paths (including signage, lighting, landscaping, etc.).

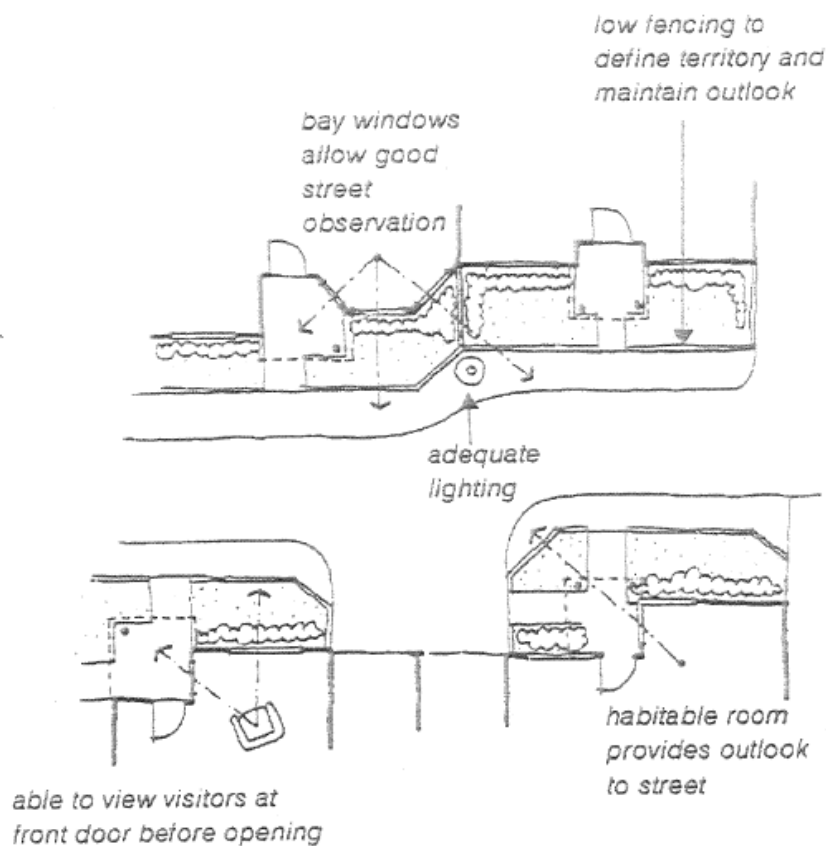


Figure 10 – Sample Crime prevention through environmental design plan

4.4 Heritage

4.4.1 European (non-Indigenous) heritage conservation

For the purposes of this Plan, a heritage item is defined as a building, work, archaeological site, tree, or place that is important in explaining the history of an area. A full list of heritage items is located in Schedule 5 of the LEP with accompanying maps. The Heritage Branch also has a database of all heritage items.

Objective

To recognise and maintain the non-Indigenous heritage values within the Shire, including places so determined by Council, as well as places listed or identified through Commonwealth, State and Local Heritage Registers.

Controls

New development

Where a proposed development that has the potential to impact on an item of European (non-Indigenous) heritage, the values of the item must be conserved and managed.

A Heritage Impact Study must be prepared by a suitably qualified person which considers the proposed development and the potential impact. The Study must identify recommendations (after considering development options) for undertaking the development in a way that minimises the potential for impact and conserves and manages the heritage item.

The Heritage Impact Study must include:

- a description of the item and its setting including a location plan showing the proposed development, adjoining development and the immediate locality as well as photographs accompanied by an annotated location map,
- plans and elevations of the proposed development in the context of the heritage item,
- an assessment of the heritage values of the existing place (the assessment should demonstrate an understanding of the significance of the place),
- strategies for conservation and management, with timing costs and other resources required, and the conservation principles and processes that will be relied upon,
- a list of people responsible for carrying out actions of the plan,
- the measures proposed for the conservation and management of the place,
- ongoing maintenance and monitoring plan and who is responsible for this, and
- any other issues or actions that may affect the place or its cultural heritage significance.

Alternatively, where the heritage item is a building, the site can be conserved and reused without compromising any of the identified heritage item values as detailed in a pre-existing Heritage Impact Study or similar report.

Where the ongoing conservation and management of the heritage item is not practical or feasible, the item can be removed to another site where the value of the heritage item can be maintained, or alternative actions are taken that are consistent with the recommendations of the Heritage Impact Study.

Additions or alterations

Additions or alterations are undertaken only where the work:

- provides a sensitive transition between the original building works and new building works,
- maintain the integrity and focus and respecting the original architectural intent of the heritage item through the additions or alterations, and
- ensure that services and mechanical plant do not significantly impact on the aesthetic appearance of the original building.

Any additions or alterations must be undertaken in accordance with an endorsed Heritage Impact Study.

Heritage item (building) maintenance

Maintenance means the ongoing protective care of a heritage item (such as a building). It does not include alterations and additions or the introduction of new materials or technology. Maintenance is particularly important for older buildings and structures with heritage value. Reference should be made to the LEP (clause 5.10) to determine if development consent is required for any proposed works.

Typical maintenance works include:

- cleaning and repairs to gutters and roofing to prevent deterioration
- ensuring fixtures are securely held in place
- general repairs to doors, gates and fences
- sealing gaps in walls
- painting previously approved painted surfaces with the same colours
- pest control measures

Non-Indigenous archaeology

Any development which proposes the disturbance or development of a heritage item listed as an archaeological site is to be accompanied by an archaeological assessment submitted as part of the Heritage Impact Statement.

An archaeological assessment is an evaluation of the probable extent, nature and integrity of the site, determination of the significance of the site and which defines the appropriate management measures for the site having regard to its significance.

The archaeological assessment is to be prepared in accordance with guidelines contained within the document titled Archaeological Assessment (Heritage Office and Department of Urban Affairs and Planning, 1996).

Where the development or disturbance of an archaeological site is proposed, the applicant will be required to liaise with the Heritage Office, NSW Department of Planning, to ensure any related statutory requirements of the *Heritage Act 1977* and subsequent amendments are complied with prior to the submission of the development application.

Any proposal to disturb or excavate land which will or is likely to result in a relic/archaeological remains being discovered, exposed, moved, damaged or destroyed, requires an excavation permit to be obtained from the Heritage Office. This applies whether or not the site is listed as an archaeological site under the LEP.

4.4.2 Indigenous heritage and archaeology

Objective

The objective of these provisions is to provide a framework for the consideration of potential impact on indigenous heritage and archaeological values from proposed development within the Shire.

Controls

Where development is proposed on or adjacent to a place that has (or may likely have) Aboriginal heritage values, an assessment must be undertaken of all aspects of the cultural heritage significance.

Following consultation with the Department of Environment, Climate Change and Water (DECCW), Department of Planning (DoP) and Pejar Local Aboriginal Land Council, a generalised map of places of Aboriginal significance has been produced (Figure 11). This map has been based on the findings of previous archaeological studies and known records contained in the Aboriginal Heritage Information Management System (AHIMS) maintained by DECCW. AHIMS includes a database for all Aboriginal objects, Aboriginal places and other Aboriginal heritage values in NSW that have been reported to DECCW.

However, whilst Figure 11 shows areas of the Shire where Aboriginal heritage values have been recorded, the map does not preclude the likelihood of significant values existing elsewhere in the Shire.

Accordingly, a matrix table has been developed (Figure 12) that nominates the level of detail required by Council when considering particular developments. The level of detail required in any study is dependent upon both the type of development to be undertaken and the location/landscape where the development is proposed.

In some instances a precautionary approach is nominated as the most appropriate means of protecting Aboriginal Heritage. The precautionary approach allows development to proceed without detailed field studies. In the event that artefacts are uncovered during earth/construction works, all activities must cease until all relevant approvals have been obtained for removal/destruction of the artefacts.

However, in other circumstances, a formal Heritage Impact Assessment will be required. Such an assessment identifies and assesses the cultural heritage values of the place and recommends appropriate strategies for their conservation and management and must be undertaken by a suitably qualified person in consultation with appropriate Indigenous representatives.

Development and intended use of any place of Indigenous cultural heritage significance is consistent with the findings and recommendations of the Heritage Impact Assessment, the outcomes of consultation with the appropriate Indigenous representatives and any requirements of the relevant State (e.g. Heritage Branch) and/or Commonwealth agency.

Division 9 of the *NSW Heritage Act 1977* contains measures to protect archaeological resources. Proposals to excavate land in the Shire require an excavation permit issued by the Heritage Council of NSW for development where it is reasonably expected that disturbance to an item over 50 years old will occur.

An excavation permit is required in order to ensure that archaeological sites are excavated under proper supervision and that significant evidence of our past is not unnecessarily lost. Archaeology requires the careful excavation of evidence in the ground in order to fully understand the history and significance of the site.

The *NSW Heritage Act 1977* also requires that a person who has discovered a relic must notify the Heritage Council of the discovery within a reasonable time. There are also legislative responsibilities and the need for Aboriginal Heritage Impact Permits under the *National Parks and Wildlife Act 1974*.

Figure 11 – Places of Aboriginal Significance

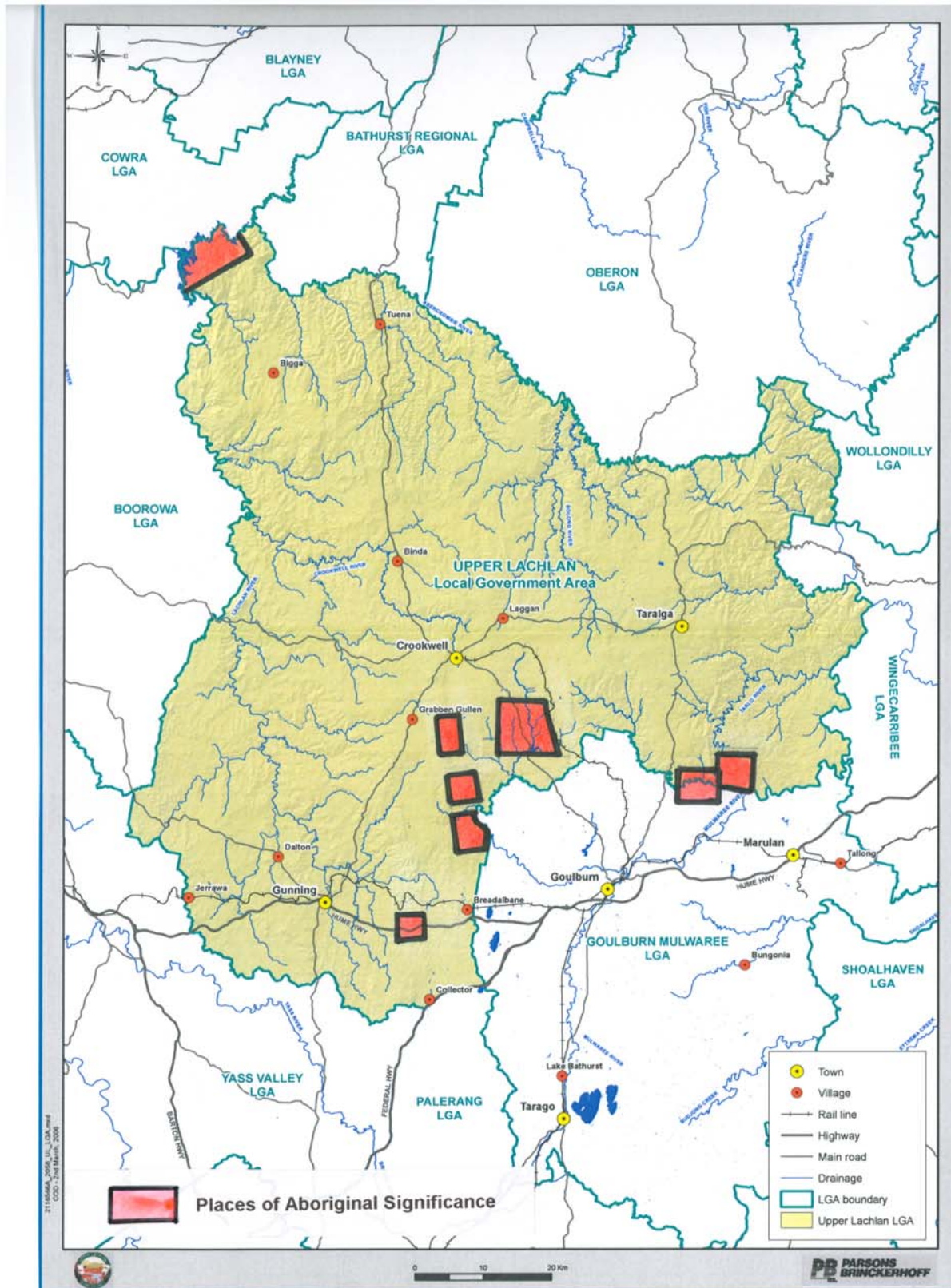


Figure 12 – Aboriginal Archaeology Matrix

Development/Landuse type	Alterations/Additions	Awnings	Carports	Commercial/Industrial buildings	Complying Development	Dams	Domestic Shed	Dwelling	Exempt Development	Rural Sheds (greater than 300 sq m)	Recreational Establishment	Recreational Facility	Services/Infrastructure	Subdivision (No new road)	Subdivision (New road)	Tanks	Extractive Industry	Intensive Agriculture/Horticulture
Topography Type/Map Reference																		
Aboriginal Sensitive Land (refer to Map)	2	1	1	2	1	2	1A	1A	1	1A	2	2	2	2	3	1	3	2
Flat Land	1	1	1	2	1	2	1	1	1	1	2	2	1	1	2	1	3	2
Lower slopes adjacent to water course	1	1	1	2	1	2	1	2	1	1	2	2	2	2	2	1	3	2
Ridgelines/Hill tops	1	1	1	2	1	2	1	2	1	1	2	2	2	2	2	1	3	2
Undulating hills and plains predominantly vegetated	1	1	1	2	1	2	1	2	1	1	2	2	2	2	2	1	3	2
Undulating hills and plains predominantly grazing land	1	1	1	2	1	2	1	1	1	1	2	2	2	2	2	1	3	2
Watercourses (within 40 metres)	2	1	1	2	1	2	1	2	1	1	2	2	2	2	3	1	3	2

1

Precautionary approach

2

Pejar Local Aboriginal Land Council Assessment (if land within Pejar LALC area) or Archaeological Survey or Risk Assessment

3

Heritage Impact Assessment

A

Precautionary approach if the development is proposed within a building envelope nominated at subdivision stage. If proposed outside an approved envelope a Type 2 assessment is required

The Assessment Process

1. Identifying potential for impacts upon Aboriginal cultural heritage values

A development or project has the potential to impact upon Aboriginal cultural heritage values if it involves one or more of the following:

- (i) disturbance to the ground surface or to sediments below the ground surface, except where disturbance will be strictly limited to:
 - man-made manufactured surfaces (such as bitumen and concrete).
 - deposits of imported land-fill or waste material.
 - extremely disturbed contexts such as quarries or quarried areas (where there is no trace of the original soil and subsoil deposits, or of buried former soils and subsoil deposits).
- (ii) disturbance to the roots, trunk or branches of old growth trees up to and more than 130 years old, which are native to the Shire,
- (iii) impact or disturbance to the content, or immediate surrounds (up to 100 metres away) of a known or previously recorded Aboriginal site, and
- (iv) occurs within, or in close proximity to, a place of special or high Aboriginal cultural significance (such as an identified cultural landscape, an existing or former ceremonial ground, a burial ground or cemetery, a story place or mythological site, a former Aboriginal reserve or historic encampment, or an archaeological site of high significance).

If one or more of these factors apply, or are likely to apply, to a proposed development or project, then the next step is to determine if an Aboriginal heritage impact assessment is required.

2. Identifying the need for an Aboriginal heritage impact assessment - Risk Assessment Report

If one or more of the factors listed in 1. above apply, or are likely to apply, to a proposed development or project, then a Risk Assessment Report that addresses the following questions should be undertaken to determine if an Aboriginal heritage impact assessment is required.

(a) Has the development or works area been subject to a comprehensive level of Aboriginal heritage assessment within the last 5 years?

The creation of a new Aboriginal heritage impact assessment would not normally be required where the area of the proposed development works occurs within the boundaries of a previously conducted Aboriginal heritage impact assessment, and that assessment was comprehensive in scope, and was conducted less than five years ago. In this circumstance, the development or works proposal would be required to address the heritage management issues identified in the existing Aboriginal heritage impact assessment.

A comprehensive assessment can be identified by the following criteria:

- The Aboriginal heritage impact assessment complies with the current Department of Environment, Climate Change and Water (DECCW) standards and guidelines for the conduct and reporting of Aboriginal heritage impact assessment reports; and
- The scope of the field survey coverage and predictive analysis is acknowledged to have effectively assessed the entire study area in a comprehensive manner. Generally this will include investigations with 40-100% field survey coverage, and exclude investigations relying upon sample survey areas totalling less than 40% of the study area.

Any proposed development area which falls outside of a former Aboriginal heritage impact assessment study area will require a new Aboriginal heritage impact assessment.

A new Aboriginal heritage impact assessment will need to be conducted, despite the existence of a previous Aboriginal heritage impact assessment, less than 5 years old, for the same area, in the following circumstances:

- The previous Aboriginal heritage impact assessment did not involve a comprehensive assessment of the study area;
- The DECCW standards and guidelines under which the previous Aboriginal heritage impact assessment was conducted have changed significantly and require a revision of the assessment report, and/or the re-conduct of all or a component of the fieldwork assessment;
- Aboriginal cultural heritage values which were not identified or predicted in the previous Aboriginal heritage impact assessment have been identified within the development area. These may be the result of a new site discovery, or arise from new oral history or documentary research; and
- The area has been identified by an Aboriginal advisory committee, Council staff, or the DECCW as requiring an Aboriginal heritage impact assessment.

(b) Does the development area include archaeologically sensitive landforms?

Where a development or works area has not been subject to comprehensive Aboriginal heritage assessment within the last 5 years, the presence of archaeologically sensitive landforms will necessitate the conduct of an Aboriginal heritage impact assessment.

(c) Does the development area include previously identified Aboriginal sites or places of Aboriginal cultural heritage value?

Where a development or works area has not been subject to comprehensive Aboriginal heritage assessment within the last 5 years, the presence of previously identified Aboriginal sites or places of Aboriginal cultural heritage value will necessitate the conduct of an Aboriginal heritage impact assessment.

The presence of previously identified Aboriginal sites or places can be determined by:

- Conducting a search of the DECCW Aboriginal Sites Register (Aboriginal Heritage Information Management System); and
- Checking site locations identified and mapped by any previously undertaken Aboriginal heritage study.

(d) Does the development or works area include all or part of an identified Aboriginal cultural landscape?

Where a development or works area has not been subject to comprehensive Aboriginal heritage assessment within the last 5 years, the presence of all or part of an identified Aboriginal cultural landscape will necessitate the conduct of an Aboriginal heritage impact assessment.

(e) Is the development area likely to include old-growth native trees up to and more than 130 years old?

Where a development or works area has not been subject to comprehensive Aboriginal heritage assessment within the last 5 years, the presence of old-growth native trees will necessitate the conduct of an Aboriginal heritage impact assessment.

Old growth native trees that may be older than 140 years old have the potential to preserve Aboriginal scars. These scars may be the result of bark or wood removal, the search for food, or other activities. Such scars are Aboriginal sites and are protected by law.

The age criterion of 140 years allows for tree germination at or before 1870, and cessation of Aboriginal tree scarring by 1900 (by which time the 1870s tree would have sufficient girth to support the harvesting of bark). The 140 years criterion is considered to be conservative, given that the removal of bark by Aborigines in the Shire is likely to have ceased by the 1870s and 1880s.

The potential for suitable old growth native trees to occur (either dead or alive) within a proposed development or works area can be gauged by the following:

- a report from a suitably qualified botanist,
- an inspection or other record indicating that no tree cover, or no old-growth tree cover remains in the area, and
- a review of aerial photography.

Old growth trees typically survive within the Shire as isolated or scattered shade trees in agricultural grassland, in remnant woodland, or in forest, especially in creek gullies and steep sided valleys.

3. Aboriginal heritage impact assessment process

The following is an outline of the process of Aboriginal heritage impact assessment where required.

(a) Determining if an Aboriginal heritage impact assessment is required

This determination process is described in 2. above.

(b) Conducting an Aboriginal heritage impact assessment

An Aboriginal heritage impact assessment must be prepared by a suitably qualified heritage practitioner or consultant. The minimum qualification generally recognised as a prerequisite for an Aboriginal heritage assessment practitioner is a tertiary level degree (or equivalent) in an Australian archaeology or cultural heritage degree. The range of specialist practitioners is considerable and can include anthropologists, stone artefact specialists, rock art specialists, materials conservators, palaeobotanists, and physical anthropologists. In general, heritage assessment based on field survey and/or excavation will require a qualified archaeologist. Assessments which involve the analysis of contemporary Aboriginal communities may also require input from an anthropologist.

Several professional organisations exist which recognise and accredit heritage consultants and other related practitioners. These are:

Australian Association of Consulting Archaeologists Inc.

Australian Institute of Professional Archaeologists Incorporated

Some consultant heritage practitioners are listed in the Yellow Pages under the categories of 'Archaeology' and 'Heritage Consultants'.

The following are key components of an Aboriginal heritage impact assessment:

- Identify and then consult with appropriate local Aboriginal stakeholder groups – Consultation with local and custodial Aboriginal community groups is an integral component of any Aboriginal heritage impact assessment.

- The status and number of stakeholder groups can change over time. The DECCW can provide advice regarding appropriate groups which should be consulted.
- Consult with relevant Council staff who are potential sources of information, advice and direction, regarding community consultation, site locations and the management of heritage values.
- Conduct a review of previous heritage assessment work and background information (including a search of the DECCW Aboriginal site register). All relevant previous heritage assessments should be reviewed with regard to the potential issues and heritage values present within the assessment area. Sufficient background information should also be presented so that the environmental and historical context of the area can be characterised, and any heritage places, sites and features can be effectively placed within an assessment context.
- Conduct an appropriate level of field inspection of the proposed development area. This usually involves comprehensive or sample survey of the development area. All field survey involves levels of sampling, however a comprehensive level of inspection would normally achieve a coverage of greater than 40% of the area subject to development impacts. The proportion of survey coverage achieved will depend on the degree of ground surface visibility available to the surveyors at the time of the investigation.

The first stage of field inspection and assessment generally involves visual inspection of the ground surface and does not include subsurface testing. In the event that an assessment concludes that an area has subsurface archaeological potential, then various forms of archaeological subsurface testing may be conducted to assess this potential. Excavation is generally conducted as a second stage of assessment, following the submission and consideration of a surface survey report. Excavation with the aim of recovering or detecting Aboriginal artefacts can only occur following the receipt of a permit or consent from the DECCW.

Any assessment of a study area must include consideration of any oral histories or traditions of the local Aboriginal or wider community regarding heritage place, events and values.

- Identify known and potential archaeological sites and places of Aboriginal cultural heritage value. Both the known and potential cultural heritage resource of a proposed development area should be adequately described. Where ground surface conditions do not allow for an effective assessment of the subsurface potential of a deposit or landform, then predictions must be made based on oral or historical report, and regionally based predictive statements about probable site locations and content.
- Submit cards to NSW DECCW for all previously unrecorded Aboriginal sites detected during survey. All new site recordings must be reported to the DECCW using standard site recording forms (provided by the DECCW).
- Assess cultural heritage significance of identified sites and places. An assessment of the heritage significance of all identified sites and places should be presented and documented. The assessment of significance is based on an established set of criteria including Aboriginal cultural and social value, scientific value, and educational value.

The assessment of Aboriginal cultural significance must be contributed by appropriate members or representatives of the Aboriginal stakeholder groups.

The assessed level of heritage significance of any single or group of sites, artefacts or places will determine to a large degree, the nature and necessity of any management strategies drafted.

- Provide impact mitigation and management recommendations for known and potential cultural heritage values. Strategies and recommended actions should be drafted for the appropriate management of the known and potential heritage values identified in the proposed development area. Where possible strategies should seek to avoid or minimise impact to heritage values. Strategies should be developed in consultation with appropriate members or representatives of the Aboriginal stakeholder groups.

(c) Submit copies of the Aboriginal heritage impact assessment for review by Council and the DECCW

This step provides an opportunity for stakeholder groups to comment on the conduct and findings of the assessment. Three copies are required by the DECCW to cover archival and review responsibilities. All survey and assessment reports which inform planning, statutory and impact assessment procedures should be subject to the review of the DECCW. The DECCW has statutory responsibility for Aboriginal sites and artefacts in NSW and requires copies of all assessments for review.

(d) Where appropriate, amend assessment report or append supplementary information in response to review comments

In the event that review comments or other feedback are received as a consequence of providing copies of the assessment to the DECCW, Aboriginal group(s) and Council, consideration should be given to addressing the comments in an appropriate form. This may be achieved by amending the original report or by providing an addendum of supplementary information.

A written report from the Aboriginal group or groups consulted may have been included within the original heritage impact assessment. Where this presents a response to the findings of the report, there should be no requirement to await a further response. If no comment has been received from the DECCW or stakeholder Aboriginal groups within a reasonable time, then the Aboriginal heritage impact assessment should be submitted to Council for their due consideration.

(e) Council assessment and determination

There are three broad categories of likely Council resolution regarding development applications or works proposals with the potential to impact heritage values:

- the proposal is approved, subject to the conduct of impact mitigation strategies (which may or may not have been recommended by the Aboriginal heritage impact assessment),
- a decision is delayed pending the results of further assessment, or
- the proposal is refused.

4. Areas of Known Aboriginal Heritage Significance

As noted Figure 11 shows known places of Aboriginal Heritage Significance. The matrix at Figure 12 illustrates the various levels of assessment required for different types of developments in these areas. The matrix also details the level of assessment required within other areas that may have a likelihood of containing aboriginal heritage values.

4.5 Flooding and Stormwater

4.5.1 Flood affected lands

Objectives

- To maintain the existing flood regime and flow conveyance capacity,
- To enable safe occupation and evacuation of existing dwellings situated on land subject to flooding, and
- To limit uses to those compatible with flow conveyance function and flood hazard.

Controls

These controls apply to areas that are subject to the discharge of a 1:100 average recurrence interval (ARI) flood event, or land identified to be flood prone on the *Flood Planning Map* of the LEP, and to areas that the Council consider to be potentially flood prone. A Flood Study needs to be prepared to support a development application, demonstrating the proposed development is consistent with these controls.

In flood prone areas:

- Works cannot involve:
 - any physical alteration to a waterway or floodway including vegetation clearing, or
 - net filling exceeding 50 m³ (cubic metres), any reductions of on-site flood storage capacity is avoided and any changes to depth, duration and velocity of floodwaters of all floods up to and including the 100 year ARI are contained within the site, or
 - any change in the flood characteristics of the 100 year ARI outside the subject site that result in:
 - loss of flood storage, or
 - loss of/changes to flow paths, or
 - acceleration or retardation of flows, or
 - any reduction of warning times elsewhere on the floodplain.

All built form, infrastructure (unless designed to be inundated) and open space must be located on land that would not be subject to flooding during the 100 year ARI flood event.

Where there is existing development located on land that is subject to flooding during the 100 year ARI flood event, this development/activity must not be intensified through further development.

4.5.2 Stormwater management

Objective

To improve water conservation, reduce the volume and increase the water quality of stormwater run-off and increase on-site storage of rainwater.

Controls

All stormwater discharging from a development must not adversely impact on environmental values of the receiving waters or water quality values downstream of a development. Environmental values in receiving waters must be protected and enhanced. This will require all stormwater being discharged from a development to be appropriately treated prior to discharge.

Proposed development must incorporate treatment methods and an approach to water management that:

- reduces demand for potable water,
- requires stormwater discharge for all proposed development be equivalent with levels and volumes of discharge for the pre-developed condition of the site,
- maximises pervious surfaces where possible, and
- encourages the reuse of stormwater and greywater.

4.5.3 Impacts on drinking water catchments

Objectives

- To ensure water catchments deliver high quality water while sustaining diverse and prosperous communities,
- To improve water quality in degraded areas and critical locations where water quality is not suitable for the relevant environmental values,
- To maintain or improve water quality where it is currently suitable; and
- Land within the Sydney Catchment Authority (SCA) must satisfy the requirements of the *Drinking Water Catchments Regional Environmental Plan No 1*.

Controls

Development within the Sydney Drinking Water Catchment should be consistent with the relevant requirements of Part 5 the *Drinking Water Catchments Regional Environmental Plan No 1* (REP 1). A complete copy of current recommended practices can be found on the SCA website - <http://www.sca.nsw.gov.au>

For all other development where there is the potential to impact on a drinking water catchment, development should only proceed where it can be demonstrated that the development:

- will not adversely change landform or vegetation, and
- includes the implementation of a management plan that will ensure that there will be no impacts or changes to surface and groundwater hydrology.

4.5.4 Overland Flow Paths

Objectives

- To maintain the existing stormwater drainage corridors and watercourses to provide for extreme surface water flows
- To provide a clear overland flow path for urban stormwater runoff when rainfall intensities exceed the capacity of the existing infrastructure or when the piped system fails
- To minimise damage to private and public property from surface water flows during and after high intensity rainfall events
- To minimise development in drainage corridors that will restrict or divert urban runoff from following a natural flow path

Controls

A detailed site survey of each potential development site is to be submitted with the development application where the land is located within the villages of Crookwell, Gunning, Taralga or Collector and is affected by stormwater overland flowpaths. The site survey is to be accompanied by a plan of all contributing catchments, areas, runoff volumes for 1, 5, 10, 20, 50 and 100 year storm intensities and a plan showing the extent of the affected area.

These details are to be prepared and certified by a practicing stormwater drainage professional.

General design principles to be followed include:

- minimum width of overland flow path to be ten metres (10.0 metres)
- floor levels of dwellings adjacent to overland flow paths must be a minimum of three hundred millimetres (300 mm) above existing ground level
- roadways, footpaths and building set backs from boundaries can be used as overland flow paths
- overland flow paths must be protected by creation of easements over the full width of the designated corridors
- diversion or filling of existing watercourses is not generally a solution as urban runoff will follow former natural gradelines in extreme rainfall events

These objectives and controls apply to Crookwell, Gunning, Taralga and Collector.

For proposed dwellings in rural areas, a building envelope is to be designated on a site specific contour plan.

4.6 Traffic and Car Parking

4.6.1 Vehicular access and parking

Objective

- To ensure a consistent and appropriate approach to the provision of car parking for proposed development,
- To ensure adequate traffic safety and management is incorporated in proposed development, and
- To provide parking areas that is convenient and sufficient for the use of disabled persons, employees and visitors generated by new development.

Controls

Sufficient on-site car parking is to be provided for all development proposals. The demand for car parking generated by any development should be provided for on-site (on the development site). The Roads and Traffic Authority (NSW) *Guide to Traffic Generating Developments* identifies the generation rates for determining car parking demand.

On-site parking shall be calculated in accordance with **Table 2**. Where the land use is not specified it shall be categorised into one of the like headings by Council and the number of spaces calculated accordingly.

Larger development applications will require a specific Parking Study or Traffic Impact Assessment to justify the proposed development in terms of access, provision of car parking and impact on the local road network.

Disabled standard will apply to most land uses at a rate of 1 space per 50 spaces or part thereof. The *Building Code of Australia* Part D prescribes the minimum requirements for the provision of parking spaces for people with disabilities. This Plan does not relieve an applicant of any obligation to comply with the *Building Code of Australia*.

For fractions within 0.25 of the next whole number, the total number of spaces shall be increased to the next whole number.

Bicycle parking/racks should be considered for shopping and recreational developments.

Definitions

The definitions in the LEP are relevant, except for definitions contained in:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, and
- *State Environmental Planning Policy (Infrastructure) 2007*.

and the following definition of:

- **Nett Leasable Space (NLS)** – net leasable space is the area physically leased, licensed or occupied for the operation of a specific use (excluding stairwells, walkways, plant rooms, etc.)

Table 2: Specific Land Use Car Parking Requirements (RTA)

Land Use	Number of spaces
Commercial/Business	
Car tyre retail outlet	3 spaces per work bay
Catering and Reception Centre	1 space per 3 seats, or 1 space per 40m ² of GFA for centres less than 100m ² GFA
Drive-in liquor store (separately or in conjunction with a hotel/club)	1 space per 40m ² of "browse room" area plus 1 space per employee
Hotel, (tavern), club (licensed)	20 spaces per 100m ² of licensed floor area (bar, lounge, beer garden, bistro/dining areas) plus 1 space per motel unit
Motel	1 space for each unit, plus 1 space for each 2 employees, plus 1 space per 40m ² of GFA Restaurant
Motor Showroom	1.5 spaces per 200m ² of site area, plus 5 spaces per service work bay
Office	1 space per 40m ² of GFA
Outdoor Displays and Sales	1.5 spaces per 200m ² of external site area for storage, display and sale of goods
Restaurant	1 space per 3 seats for restaurants 100m ² or greater or 1 space per 40m ² of GFA for restaurants less than 100m ² GFA
Roadside stall	Minimum number of spaces 4
Service stations	6 spaces per work bay, plus 1 space per 40m ² of GFA for a convenience store, plus 1 space per 40m ² of GFA for a restaurant
Shop	1 space per 40m ² of GFA for shops less than 200m ² GFA
Shopping centre (Supermarket/ Convenience Stores)	4.4 spaces per 100m ² of NLS for developments of 200m ² or greater
Drive-in take-away food outlet (fast food outlet)	12 spaces per 100m ² of NLS plus 1 space per 3 seats plus, for development with drive-through facilities, a queuing area for 5 to 12 cars measured from pick up point and a separate area for vehicles waiting pickup
Education	
Child Care Centre	1 space per 2 employees plus on-site set down/drop off area
Schools	1 space per 2 employees, plus minimum 10 spaces for students, plus bicycle racks.
Tertiary Institutions/Adult Education	1 space per employee, plus 1 space per 3 students.
Health Care	
Hospital	Subject to Parking Study
Medical Centre / Health Consulting Rooms	3 spaces per consulting room/ surgery, plus 1 space for each 2 employees
Veterinary Surgery	Note: Total parking may be reduced where it can be demonstrated that all consulting rooms will not be in concurrent operation

Land Use	Number of spaces
Industry/Employment	
Road transport terminals/ container depots/bus depots	1 space per 3 employees, plus 1 space per company vehicle, including vehicles leased for or servicing the company
Industrial buildings	1 space per 100m ² of GFA; plus 1 space per 40m ² of office GFA, plus 1 space per 37m ² of retail GFA
Wrecking yards/junkyard	1 space per employee, plus 1 space per 200m ² of site area
Warehouse/bulk store	1 space per 300m ² of GFA, plus 1 space per 40m ² of retail GFA
Home industry	1 space per 3 employees, plus 1 space per dwelling
Extractive industry	1 space per company vehicle, plus 1 space per 2 employees
Car Repair Station	5 spaces per work bay. This may include the area available within the work bays where vehicles are worked upon
Places of Assembly	
Halls, meeting places, churches, convention centres, cinemas, community facilities	<p>1 space per 10 seats, or 1 space per 10m² of space used by the public, whichever is the greater</p> <p>Note: Total parking provision may be reduced where it can be demonstrated that the time of peak demand for parking associated with locality does not coincide.</p> <p>Cinema Complex may require a Parking Study.</p>
Recreational	
Recreational facility	<p>Whatever is applicable:</p> <ul style="list-style-type: none"> • 3 spaces per squash court • 3 spaces per tennis court • 3 spaces per bowling alley • 30 spaces for first bowling green, plus 15 spaces for each additional bowling green • 4 spaces per gymnasium • 16 spaces per indoor cricket court • Otherwise, 1 space per 40m² GFA
Tourist Recreation	1 space per 40m ² of GFA for restaurant, plus 1 space for each unit, plus 1 space per 40m ² of GFA for commercial/retail, plus 1 space per 2 employees.
Caravan parks	1 space for each site, plus 1 space for each 10 long-term sites, plus 1 space for each 20 short-term sites, with a minimum visitor parking of 4 spaces.
Residential	
Dwelling house (other than Complying Development)	1 space per dwelling
Dual occupancy	2 spaces
Multi-unit development	2 spaces per dwelling unit, plus 0.25 spaces per dwelling unit (visitor parking)
Housing for seniors or people with a disability	Refer to <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>

Requests for variations to Parking Requirements

An applicant may request a variation to the car parking provisions as identified in Table 2.

Variations to these rates will only be considered where they are justified as part of the development application.

Parking spaces are required to be calculated in accordance with Table 2, which initially determines parking spaces for each proposed use. Following initial calculation, numbers may be reduced, subject to justification, in the following circumstances:

- History of previous land uses and requirements for on-site parking (for instance the proposed development may be for infill development and the previous development has historically not provided car parking);
- The size and type of the development and its traffic generation;
- The availability and accessibility of other public parking;
- Traffic volumes on the street network, including expected future traffic volumes relating to the road hierarchy; and
- Hours of operation and any other specific characteristics of the development, for example where peak demand for parking of the proposal and the locality do not coincide.

Justification supporting variation to the rate of car parking provision must consider the following points:

1. Where mixed use developments (that is a combination of land uses) or developments proposed for existing mixed use complexes are able to demonstrate:
 - A variation in peak demand times of uses
 - The likelihood of multi-purpose trips
 - The extent of parking available or to be provided for the uses in publicly accessible form (e.g. on-street or in public parking lots)
 - The potential for increased on street parking by street re-design
 - Easy access to parking and constant turnover times for spaces, and
 - Good walking access
2. Each application shall be considered on the basis of the individual circumstances and merits of the case and in terms of achieving the aims and objectives of this Plan; and
3. Where it can be demonstrated that the existing commercial/retail development on the site has contributed to past car parking policies/requirements, credit will be given, generally at the ratio of one space per 40 square metres of existing gross floor space.

Note: A request for variation must be in writing and specify:

- The standard to be varied,
- Variation requested (including calculations), and
- Detail in support of the variation – justify the variation and demonstrate how the aims and objectives of this Plan will still be met.

4.6.2 Roads and Traffic Authority (RTA) controlled roads

In the preparation of development applications for development on RTA controlled roads, consideration shall be given to relevant RTA Road Design Guidelines and the like.

Future roads should be designed such that the road traffic noise from classified roads is mitigated in accordance with the former Department of Environment and Conservation's criteria for new developments (*Environmental Criteria for Road Traffic Noise*). The RTA's *Environmental Noise Management Manual* provides practical advice for selecting noise mitigating treatments. In this regard, the future developers, not the RTA, are responsible for providing noise attenuation measures in accordance with the *Environmental Criteria for Road Traffic Noise* document.

4.6.3 Heavy vehicle generation development – haulage routes

Objective

To design and manage haulage routes to mitigate potential impacts on the traffic network and amenity.

Controls

For significant mining, infrastructure or similar developments, a haulage route must be nominated with the development application for approval. The design of the haulage route must ensure that the route:

- is adequate for the type and volume of traffic to be generated,
- will not create or worsen any traffic hazards,
- will not have adverse effects on the amenity of the locality, and
- minimises disturbance to surrounding land uses and impacts from emissions.

4.7 Existing Use

Objective

To ensure any change of use which involves “existing use” provisions is compatible with the relevant zone objectives.

Definitions

For the purposes of these provisions the following definition and references are relevant for each of the terms below:

- Existing Use – *Environmental Planning and Assessment Act 1979*
- Certain Development Allowed – *Environmental Planning and Assessment Regulation 2000*

Note: Additional controls relating to “existing uses” are located in the Act and *Environmental Planning and Assessment Regulation 2000*.

4.8 Temporary events

Temporary events that include the erection of a temporary structure [which includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure] or require the use of a building as an entertainment venue are a form of “development” and as such require development consent in accordance with the *State Environmental Planning Policy (Temporary Structures) 2007* and the LEP (clause 2.6BB)

Major temporary events, where the number of participants and/or spectators is, or is expected to exceed 500 people, require development consent. Whilst minor events, where the number of participants and/or spectators is less than 500 people, may be exempt from requiring development consent. Under certain situations other forms of approval from Council may still be required. For example, if a temporary road closure or activity on a public road is proposed, or if an event on Council land is proposed.

Events exempt from the requirement to obtain development consent must still conform to all relevant Council or legislative requirements. For example, the sale of food must comply with the Food Act and Food Safety Standards.

In the event that development consent is required, the following information is required to be submitted:

1. Development application form (completed), fees and written owner's consent.
2. Site plan indicating the location of all structures, etc.
3. Statement of Environmental Effects, including, but not limited to, the following information:
 - (a) description of event
 - (b) date and time of event
 - (c) date and times of set up/removal
 - (d) details of music, amplification or other potential noise emissions
 - (e) details of food sold/served/provided
 - (f) details of parking, including owner's permission if off-site
 - (g) details of amenities e.g. toilets
 - (h) details of waste management, including general garbage and recycling
4. Risk Assessment, including emergency protocols.
5. Traffic Management Plan
6. Relevant Insurance documents
7. Food notification numbers and site plans for all food stalls
8. For large tents, stages and platforms:
 - internal layout plan to scale,
 - details of compliance with *Building Code of Australia*, particularly with regards to structural adequacy, egress and fire safety,
 - documentation that specifies the live and dead loads the temporary structure is designed to meet,
 - a list of any proposed fire safety measures to be provided in connection with the use of the temporary structure,
 - documentation describing any accredited building product or system sought to be relied on for the purposes of section 79C(4) of the Act,
 - copies of any compliance certificates to be relied on, and
 - elevations and sections showing heights of any proposed temporary structures and the materials of which any such structures are proposed to be made are also required.

Other Approval Requirements for Temporary Events

- An event on Crown land, not managed by Council, or private land requires owner's approval and consent prior to lodging the development application.
- Events involving road closures require approval under the provisions of Section 138 of the *Roads Act 1993*.
- Events involving sale of liquor require an approved licence from the Office of Liquor Gaming and Racing.
- Events where alcohol is provided will be subject to approval of NSW Police and Council
- Events involving fireworks require approval from NSW WorkCover Authority.
- Events involving Amusement Devices require separate approval under Section 68 of the *Local Government Act 1993*.

5. Residential development

5.1 Subdivision

Objectives

To ensure appropriate subdivision for residential purposes within RU5 Village, R2 Low Density Residential and R5 Large Lot Residential zones, recognising local amenity and character whilst facilitating growth (see Section 8 for Subdivision in Rural areas).

Controls

- Subdivision can only occur in accordance with the provisions of the LEP.
- The layout of the subdivision is responsive and creates local identity by:
 - responding to site characteristics, setting, landmarks, places of cultural heritage significance and views, and
 - creating legible and interconnected movement and open-space networks.
- Access for one dwelling via right of carriageway is to be a minimum of 4 metres in width (excluding traffic control devices)
- Shared access for two or more dwellings is to be a minimum of 6.0 metres in width.
- The layout of streets, lot and infrastructure responds appropriately to environmental features of the site or locality, by:
 - following the natural topography,
 - minimising the need for earthworks,
 - minimising vegetation loss or the potential for adverse edge effects on remnant vegetation,
 - avoiding risks to human health and the environment from contaminated land,
 - maintaining natural drainage features and flood ways, and
 - maintaining wildlife corridors and habitat areas.
- The development is integrated with the surrounding urban or rural environment, having regard to:
 - the layout and dimensions of streets and lots,
 - connections to surrounding streets and infrastructure networks,
 - provision for shared use of public facilities by adjoining communities, and
 - buffering of any existing or potential incompatible land uses nearby.
- The street and lot orientation facilitates buildings which have improved energy efficiency through climate responsive siting and design.
- The street and lot layout facilitates the provision of services, including water supply, sewage disposal, waste disposal, drainage, electricity and telecommunications, in a manner that:
 - is efficient,
 - minimises risk of adverse environmental or amenity related impacts, and
 - minimises whole of life cycle costs for that infrastructure.

- In a reconfiguration that involves the creation of a new street, streetscape and landscape treatments are provided that:
 - create an attractive and legible environment with a clear character and identity,
 - use and highlight features of the site such as views, vistas, existing vegetation, landmarks and places of cultural heritage significance,
 - enhance the safety, casual street surveillance, and comfort, and meet user needs,
 - complement the function of the street in which they are located by reinforcing desired traffic speed and behaviour,
 - assist the integration with the surrounding environment,
 - provide for infiltration of stormwater runoff wherever practicable, and
 - minimise maintenance costs having regard to:
 - street pavement, parking bays and speed control devices,
 - street furniture, shading, lighting and utility installations, and
 - retention of existing vegetation, and
 - on street planting.
- Lots created for residential purposes do not alienate or diminish the productivity of good quality agricultural land and are themselves protected from the potential adverse effects of rural uses.

Telecommunications Infrastructure advice

Telstra Corporation is the Primary Universal Service Provider for telecommunications infrastructure in Australia. Extensions to the Telstra network are planned in light of the size and pace of each stage of proposed development and the proximity of existing Telstra network. Early notification of any proposed development will enable Telstra to deliver services with minimal disruption and enable coordination of trenching with other infrastructure. To provide early notification, planned property developments can be registered on the Telstra website. Council requires the extension of the Telstra cable network to all new allotments within any subdivision for residential purposes..

Definitions of levels of roads

Access Street

The lowest order road (access street) having as its primary function, residential space – amenity features which facilitate pedestrian and cycle movements, and where vehicular traffic is subservient in terms of speed and volume, to those elements of space, amenity, pedestrians and cyclists.

Local Street

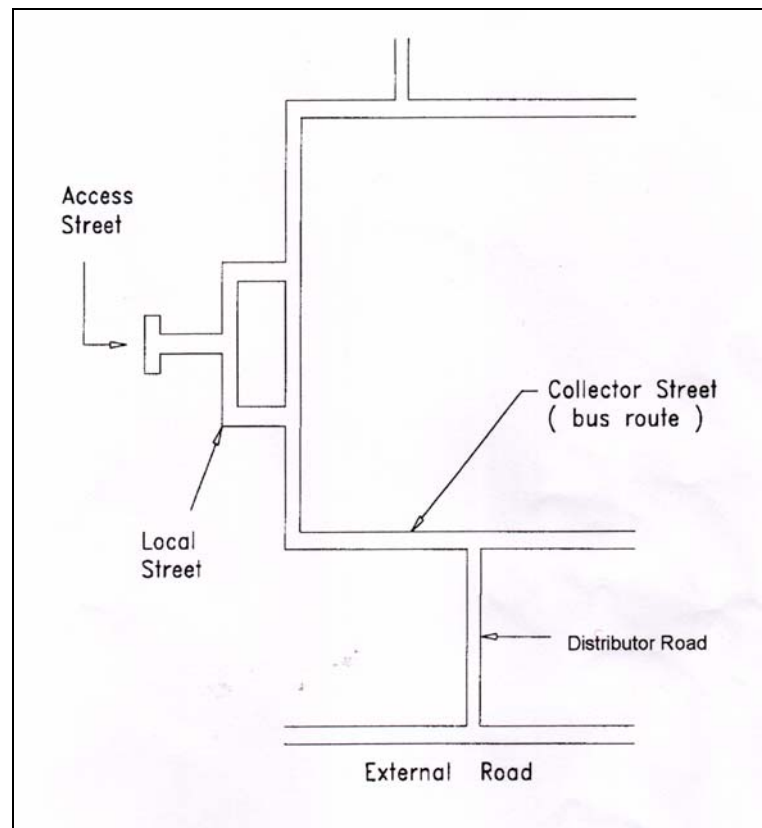
The next level road (local street) as a local residential street should provide a balance between the status of that street in terms of its access and residential amenity functions. Resident safety and amenity are dominant but to a lesser degree than access streets.

Collector Street

The second highest order road (collector street) has a residential function but also carries higher volumes of traffic collected from lower order streets. A reasonable level of residential amenity and safety is maintained by restricting traffic volumes and speeds, however, amenity and resident safety do not have the same priority as access or local streets.

Distributor Road

The highest order road (distributor road) within a residential development should have as its main function the convenient and safe distribution of traffic generated by the development. Direct access should not be provided for single dwelling allotments but access can be provided to multi-unit developments and non-residential land uses. The distributor road should serve only the development and should not attract through traffic.

Figure 13 – Typical Road Hierarchy**Characteristics**

New roads in residential subdivisions are to be designed to comply with the requirements detailed in Table 3.

Table 3: Characteristics of roads in residential subdivision road networks

Road type	Maximum traffic volume (vpd) ⁽¹⁾	Maximum speed (km/h)	Bitumen Sealed Carriageway width (m) minimum ⁽²⁾	Parking provisions within road reserve	Kerbing ⁽⁴⁾	Footpath requirement minimum	Bicycle path requirement	Verge width (m) minimum (each side)	Minimum road reserve width (m)
Access Street	50	40	7	Carriageway	Mountable	One side	No	3	15
Local Street	500	50	7	Carriageway	Mountable	One side	Network dependent	3.5	15
Collector Street	1000	50	11	Carriageway	Upright	One side	Network dependent	3.5	18
Distributor Road	1000 +	60	13	Carriageway	Upright	One Side	Network dependent	3.5	20

Source: http://www.lismore.nsw.gov.au/content/planning/manuals/D01-Goemetric_Road_Design.pdf

Notes:

- (1) For single dwelling allotments, apply traffic generation rate of 10 vehicles per day (vpd/allotment, equivalent to approximately one vehicle per hour (vph) in the peak hour, unless a lower rate can be demonstrated
- (2) Widening required at bends to allow for wider vehicle paths (using AUSTROADS Turning Templates)
- (3) Where kerbing is not required a flush pavement edge treatment can be used. Maximum carriageway widths required if barrier kerbing used.
- (4) Requires:
 - (i) Provision for widening to 5.0 metres if necessary in the future
 - (ii) Verge parking as noted with scope for additional spaces
- (5) Minimum width required to provide for pedestrians, services, drainage, landscape and preservation of existing trees. Add additional width on one side for future widening of carriageway to 5.0 metres if required. For two lane carriageway design, no provision for widening required.
- (6) Access for one dwelling via a right of carriageway is to be a minimum of 4.0 metres wide formation with a minimum 10.0 metre wide road reserve.
- (7) Cul-de-sacs shall be designed with a 'bulb' having a bitumen sealed radius of 11 metres.

5.2 Residential

5.2.1 Residential (RU5 Village, R2 Low Density Residential and R5 Large Lot Residential Zones)

Objectives

To ensure the design, siting and height of residential dwelling houses, domestic outbuildings, swimming pools and spas achieve an appropriate level of amenity, privacy and solar access.

Dwelling houses

Controls

Height

- Maximum 8.5 metres in height, measured from natural ground level.
- Not exceed two storeys in height.

Setbacks

- Front setbacks:
 - Council will consider flexibility in front setbacks (inclusive of verandah, porch etc.), however, the following development standards are recommended:
 - New residential areas – 6 metres
 - Existing residential areas – the average of the setbacks for the two adjoining lots
 - Corner lots – the secondary frontage setback can be reduced to 4.5 metres
 - Large Lot Residential – 10 metres
 - Council will consider reduced setbacks if it can be demonstrated that there are no adverse impacts in relation to streetscape amenity, road function, privacy, private open space, landscaping, etc.
 - Garages must be setback a minimum of 5.5 metres from the primary or secondary frontage from which vehicle access is proposed, to allow private vehicles to park completely within the site
- Side and rear setbacks:
 - Side setbacks shall be 900 mm for Zones RU5 Village and R2 Low Density Residential
 - Rear setbacks shall be 3 metres for Zone R2 Low Density Residential
 - Side and rear setbacks shall be 5 metres for R5 Zone Large Lot Residential
 - Where access is to be gained from a lane adjoining a rear boundary, the setback shall be 5.5 metres from the rear boundary for Zone R2 Low Density Residential

- Notes:**
1. *These setbacks may be reduced where it can be appropriately demonstrated that dwelling structures are adequately separated for privacy and overshadowing*
 2. *All walls adjacent common boundaries must be setback and constructed of appropriate material to ensure compliance with the Building Code of Australia fire rating requirements.*

Private Open Space

An area of private open space must be provided on site. The private open space must:

- be no less than 10% of the lot area, with a minimum area of 5 metres x 5 metres
- be directly accessible from a living area of the dwelling
- is generally flat (e.g. less than 5% grade)
- preferably have a northerly aspect, and achieve at least 3 hours of direct sunlight on July 21 (the winter solstice), and
- areas used for driveways, car parking, drying yards and service yards shall not be included as private open space

Privacy

Where a detached dwelling is within 2 metres of an existing dwelling at the ground storey level, or within 8.5 metres at any level above the ground storey level, the windows of all habitable rooms are not located directly adjacent to the windows or glazed openings of habitable rooms in the adjacent house such that direct overlooking is possible.

Vehicle access and parking

- Garages shall be no more than 50% of the dwelling house width.
- Garages must not be forward of the front building line (incorporating any articulation zones).
- Vehicle access to the residential dwelling house must be designed and constructed such that:
 - public utility services and drainage infrastructure are appropriately accommodated,
 - driveways are safe for drivers and pedestrians, and
 - they are sealed so they do not cause noise or dust issues for adjoining residences.
- Vehicle access must be consistent with the relevant requirements of AS2890
- Access for one dwelling house via right of carriageway is to be a minimum of 4 metres in width (excluding traffic control devices)
- Shared access for two or more dwelling houses is to be a minimum of 6 metres in width (refer to Australian Model Code for Residential Development – AMCORD), and
- Vehicle access design should be incorporated in the overall landscape design.

Domestic Outbuildings

Controls

Height

- Maximum 4.5 metres in height, measured from natural ground level.

Setbacks

- Side setbacks shall comply with the *Building Code of Australia* for Zones RU5 Village and R2 Low Density Residential.
- Rear setback shall be 900 mm where access to a rear lane is not available.
- Side and rear setbacks shall be 5 metres for R5 Zone Large Lot Residential

Other

- Shall not contain any other sanitary fixtures other than a toilet and basin.
- Not to be used for any habitable, commercial or industrial purpose.

Swimming Pools and Spas

Controls

Setbacks

- Located behind the front primary building setback.
- Any decking and/or coping less than 300 mm above natural ground level to be setback one metre from the rear and side boundary for Zones RU5 Village and R2 Low Density Residential.
- Any decking and/or coping equal to or greater than 300 mm above natural ground level to be setback three (3) metres from the rear and side boundary.

5.2.2 Dual Occupancy

Objectives

To ensure high standards of development outcomes and consistency with local character and amenity.

Controls

These, in addition to the relevant provisions of the LEP and Section 5.2.1, apply to dual occupancy development. In accordance with the LEP:

- Dual occupancy is permissible with Council development consent within Zone RU5 Village and Zone R2 Low Density Residential.
- All dual occupancies are prohibited in Zones RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry and RU4 Rural Small Holdings.

Note: Attached means physically attached by a common wall or a common roof structure.

The minimum amount of site area required for each dwelling in dual occupancy residential development is:

Zone and Minimum Lot Size (MLS)	Minimum area for Dual Occupancy
RU5 (MLS 1,000 square metres) <i>Gunning and Taralga</i>	500 square metres per dwelling unit with reticulated water and sewer
R2 (MLS 800 square metres) <i>Crookwell</i>	400 square metres per dwelling unit with reticulated water and sewer
R5 (MLS 2,000 square metres) <i>Crookwell</i>	1,000 square metres per dwelling unit with reticulated water and sewer

In zones RU5, R2 and R5 where reticulated water and sewer is not available, the minimum area per dwelling unit is to be the same as the minimum lot size applicable.

5.2.3 Multi Dwelling Housing

Objectives

To ensure high standards of development outcomes and consistency with local character and amenity.

Controls

The minimum amount of site area required for each dwelling in a multi dwelling housing residential development is:

Zone and Minimum Lot Size (MLS)	Minimum area for Multi Dwelling Housing
RU5 (MLS 1,000 square metres) <i>Gunning and Taralga</i>	500 square metres per dwelling unit with reticulated water and sewer
R2 (MLS 800 square metres) <i>Crookwell</i>	400 square metres per dwelling unit with reticulated water and sewer

In zones RU5 and R2 where reticulated water and sewer is not available, the minimum area per dwelling unit is to be the same as the minimum lot size applicable.

5.2.4 Residential (R5 Large Lot Residential Zone – Laggan Road, Crookwell)

Objectives

- To ensure appropriate controls are in place to protect the amenity of existing residential development from new development.
- To ensure satisfactory access arrangements are made for properties fronting Elizabeth Street due to future development.

Controls

Rear lot access

Provision shall be made on that part of Lot 10, DP 1031350 and Lot 2, DP 534602 zoned R5 Large Lot Residential for rear lot access for lots fronting Elizabeth Street.

The rear lot access shall also serve as a buffer from future development on Lot 10, DP 1031350 and Lot 2, DP 534602 with building setbacks to be measured from that part of the access furthest from the Elizabeth Street rear boundaries.

Other controls

Comply with relevant provisions in this Plan.

6. Commercial development

6.1 Commercial (B2 Local Centre and B4 Mixed Use Zones) – Crookwell

Objective

To ensure that development within the B2 Local Centre Zone and B4 Mixed Use Zone located in Crookwell, as well as other commercial development, is consistent with the intended character of the zone and the general locality.

Controls

Scale

- Premises must be of a scale that is proportionate with/appropriate to the existing development and character of the locality for the proposed development.

Site layout and building design

- Buildings are located along frontages to streets and open space to create a built form edge that contributes to a continuous built form frontage,
- Buildings must be designed to recognise and enhance the character of the locality for the proposed development,
- Areas for car parking, servicing and access should be located so as not to dominate the streetscape, and
- Street furniture (seating, bicycle racks, etc.) are provided where appropriate.

Elevations and materials

- Elevations and materials:
 - do not require high levels of maintenance,
 - complement the character and amenity of the locality,
 - do not comprise highly reflective materials, and
 - are consistent with any specific heritage requirements.

Micro climate

- Where buildings are adjacent to public streets and other public places, awnings or similar shelter providing structures should be provided.

Amenity

- Development must not adversely impact on the amenity or environmental quality (stormwater discharge, odour, noise, etc.) of adjoining premises and the broader locality.

Trade Waste

- Development for the purpose of food premises shall have a grease trap installed.

6.2 Outdoor dining – footpath usage

Objectives

- To encourage a streetscape that promotes economic development and visual amenity
- To facilitate compatible commercial activities for business houses
- To allow pedestrians ease of access along footpaths
- To provide for the safe movement of pedestrians
- To facilitate businesses to improve disabled access, and
- To facilitate non-commercial activities by organisations including voluntary organisations

Controls

- All development proposals for (or including) outdoor dining must be consistent with the adopted Council Policy for Outdoor Dining – Footpath Usage.

7. Industrial development

7.1 Industrial (IN2 Light Industrial Zone) – Crookwell

Objectives

To incorporate appropriate industrial development within the Shire.

To provide an open streetscape which enhances the visual quality of development and the urban landscape.

Controls

All applications for industrial development shall provide sufficient information to address the following matters:

- type of development, nature and volume of goods produced, handles or stored
- anticipated noise levels beyond the site
- hours of operation
- description of plant, machinery and equipment involved in the operation
- number of employees
- likely size, frequency and number of deliveries to and from the site
- likely number of visitors to the premises, including customers, trader representatives etc
- proposed vehicle movements, access, manoeuvring, parking, loading and unloading arrangements, traffic management plan
- waste disposal arrangements
- anticipated future expansion (if known)
- effect on any residential development in the vicinity
- availability of water, sewer, power and stormwater drainage

Site suitability and layout

- development must only occur where buildings, parking areas, landscaping areas, service vehicle areas and areas for on-site vehicle movement are contained on-site
- development must take into consideration the topography, drainage lines, existing infrastructure (electricity, sewer, etc.), access and existing vegetation

Building design

- buildings must be designed to address the street and have a clear entry point. No blank walls should front the street,
- the scale and bulk of the building/s must be consistent with appropriate built forms for that type of use and adjoining uses, and
- building finishes should generally be consistent with the following:
 - materials – masonry, colorbond, glass or brick (non reflective materials)
 - colours – dark earthy tones – greys, blues and greens.

Setbacks

- Setbacks for building/s must consider:
 - efficient use of the site
 - car parking to be provided forward of the building line
 - provision of service vehicle turning areas on-site, and
 - landscaping at the front of the site
- All setback areas are to be landscaped
- No parking will be permitted within setback areas
- Minimum requirements:
 - frontage – 6 metres
 - side and rear – setbacks required for corner allotments (secondary road frontage) and in areas of visual importance

Note: Setback distances are proportionally related to building materials required to satisfy wall fire ratings – refer to Building Code of Australia for details.

Buffer to residential development

- An appropriate buffer shall be provided from Industrial development to land zoned R2 Low Density Residential and R5 Large Lot Residential. This buffer shall be determined in consultation with Council to ensure sufficient area is provided to protect the amenity of existing and future residential development in this area. The buffer may take the form of a physical barrier including suitable fencing and landscaping.

Traffic management

- A traffic management plan/assessment report shall be submitted to address the traffic impacts in the locality (specifically McIntosh Road, Laggan Road, Clifton Street, King Road and any other relevant local streets). This should address traffic generation as a result of the development and also impacts on existing land use traffic generation.

Environmental management (noise, traffic, vibration etc)

- Where the proposed development involves a noise producing activity, attenuation measures should be provided to protect the amenity of the locality, this may include:
 - incorporation of sound proofing to machinery/activities likely to create a noise,
 - locating noisy operational equipment within a noise insulated being away from residential areas
 - implementing efficient business practice to minimise the use of equipment, traffic movements per site per day
 - where sites adjoin a residential area, limiting the hours and times at which mechanical plant and equipment is used
 - the use of appropriate paving or track mounting and acoustic barriers as required to minimise the noise and vibration impact of traffic operations
- Development, including any plant and machinery, must not contribute to emissions that are inconsistent with the *Protection of the Environment Operations Act 1997* and corresponding Regulations. Applicants are required to demonstrate consistency of any proposed development with these requirements. It should be noted that a separate approval may be required from DECCW.
- All external lighting provided is in accordance with *AS 4282 Control of the Obtrusive Effects of Outdoor Lighting*.

Waste management

- Development must provide separate areas for the storage of waste bins which are suitably located for use and waste servicing, and
- The location of waste bins must be such that it minimises potential impacts on adjoining uses.

8. Rural development

8.1 Agriculture

Sustainable agriculture is defined as the use of farming practices and systems which maintain or enhance:

- agricultural production as an economic activity,
- the natural resource base, and
- other ecosystems which are influenced by agricultural activities.

Objective

To ensure agriculture, intensive livestock agriculture and intensive plant agriculture are conducted in a sustainable manner.

Controls

The following provisions should be considered as a part of any development proposal:

- Applications for intensive livestock agriculture or intensive plant agriculture should be accompanied by a Plan of Management which addresses the principles of sustainable agriculture. The application may be referred to the Department of Industry and Investment – Primary Industries.
- Property owners should contact NSW WorkCover for the requirements for the storage and use of chemicals,
- To reduce environmental impact of agricultural activities, an assessment of the capability of the land should be undertaken. Consideration should be given to the sustainability of different soil landscapes and the suitability of steep slopes for agricultural activities,
- Dwellings should be sited to maintain the continuity, and minimise the disturbance, of agriculturally productive land.

8.2 Subdivision

These provisions provide Council's locational, design preferences and conditional requirements associated with rural subdivision applications. These specifically relate to subdivision in the following zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Rural Small Holdings and
- RU5 Village

Objectives

- To control the density of development in order to limit population growth and maintain the rural character of the area;
- To promote lots of sufficient size to conduct agriculture and other rural pursuits; and
- To minimise the fragmentation of agricultural land.

Controls

The following controls are relevant to proposed rural subdivision.

Lot design

Minimum lot sizes are specified in the lot size maps to the Upper Lachlan LEP 2010.

The proposed lots should be marked on the ground at each corner by durable stakes, not less than 50 mm in diameter, set firmly into the ground with not less than 1 metre projecting vertically and painted yellow or orange. This is to be completed prior to the application being submitted. This is to give an indication to Council officers on the approximate dimensions of the lots and their layout in relation to the topography and surrounding allotments. Marking by a handheld GPS unit is acceptable for preliminary assessment.

New lots to be created to minimise environmental impacts including:

- soil disturbance/erosion
- creek/waterway crossings
- tree removal, and
- adequate separation distances for new and existing development and environmental features

Bushfire prone areas

Safe siting of lots within Bushfire Prone Areas is essential. Such sites should avoid the need for extensive clearing of native vegetation and must provide for safe access for Bushfire and Emergency Service vehicles where the land is Bush Fire Prone Land. A bushfire risk assessment must be submitted in accordance with *Planning for Bushfire Protection 2006*, a NSW Rural Fire Service Publication.

Council is able to identify if the subject land is Bushfire Prone prior to the lodging of a development application. Please note a referral fee (payable to the NSW Rural Fire Service) is required with all mandatory referrals to the NSW Rural Fire Service.

Vegetation/flora

The *Native Vegetation Act 2003* prohibits the removal of native vegetation without prior permission from the relevant Local Catchment Management Authority. Applicants are advised to discuss any proposed clearing of vegetation with their respective Catchment Management Authorities (CMAs) prior to lodging a development application with Council. The relevant CMAs are:

- Hawkesbury Nepean CMA
- Lachlan CMA

It is also advised to check with DECCW for any endangered communities or species that may be on your land. If there is a possibility of any Endangered Communities or species on your land a flora study is to be completed and submitted with the application.

Additional information can be found at:

- http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/browse_geo.aspx, or
- <http://www.bionet.nsw.gov.au/Area.cfm>.

Fauna

The DECCW website should also be consulted to identify any threatened fauna that might be on the development site. If there is a possibility of any threatened fauna species or their habitat on your land then a fauna study is to be completed and submitted with the application.

Additional information can be found at:

- http://www.threatenedspecies.environment.nsw.gov.au/tsprofile/browse_geo.aspx or
- <http://www.bionet.nsw.gov.au/Area.cfm>

Crown Roads

If the development is proposed to open or use a Crown Road, the written consent of the NSW Land and Property Management Authority to the making of the application is required prior to the submission of the development application to Council.

Works on or near waterways

Under the *Water Management Act* (formerly Part 3A of the *Rivers and Foreshores Improvements Act 1948*) any crossing of protected waters will require an activity approval from the NSW Office of Water prior to the construction of the crossing.

Sydney Catchment Authority

The provisions of the *Drinking Water Catchments Regional Environmental Plan No 1* apply to all development applications within the Sydney drinking water catchment. This requires lodgement of documentation to demonstrate that the proposed development will have a neutral or beneficial effect on water quality.

Rights of Carriageway

Subdivision of land for the purpose of a dwelling house where access is proposed by way of a right of carriageway which serves or is capable of serving any other portion or allotment of land other than that on which the dwelling house is to be erected, is generally not supported by Council.

A detailed submission supporting this type of access must be submitted with the development application along with the written approval of all of the owners of the land over which a right of carriage way is proposed or currently exists to be submitted with the development application.

Battle axe handle access

Subdivision of land where access is proposed by a battleaxe handle is generally not supported by Council. A detailed submission supporting this type of access must be submitted with the development application.

Water cycle management report

Council will require a Water Cycle Management Report for each lot in the subdivision which identifies that there is a suitable area capable of the disposal of on-site wastewater. The report must include a plan showing a nominal effluent management area for each proposed lot, in relation to slope, aspect and other site constraints. The plan must indicate all nearby waterways with a buffer of a least 100 metres between effluent management areas and perennial or intermittent creeks or watercourses and 40 metres to drainage depressions.

Telecommunications Infrastructure advice

Telstra Corporation is the Primary Universal Service Provider for telecommunications infrastructure in Australia. Extensions to the Telstra network are planned in light of the size and pace of each stage of proposed development and the proximity of existing Telstra network. Early notification of any proposed development will enable Telstra to deliver services with minimal disruption and enable coordination of trenching with other infrastructure. To provide early notification, planned property developments can be registered on the Telstra website. Council requires the extension of the Telstra cable network to all new allotments within any subdivision for residential purposes.

However, this requirement may be waived for subdivision in RU1 and RU2 zones where it can be clearly demonstrated that alternative communication devices are able to be utilised. The decision to waive the standard requirement is at the discretion of Council.

Electricity

Council requires that electricity services be provided to each allotment created with a dwelling entitlement. Proposed alternative methods of power supply will be considered by Council for subdivision in RU1 Primary Production Zone and RU2 Rural Landscape Zone where the development is proposed as ecologically sustainable and a covenant is imposed on the land title requiring all dwellings to comply with BASIX Sustainability Index of 50 for energy and water. The approval of alternative methods of power supply is at the discretion of Council.

Roadside fencing

All road frontages within a subdivision and any road reserve providing access to any allotment, shall be fenced to Council's Standard as follows:

- A minimum height of 1.27 metres
- Steel star posts at a maximum of 5 metre intervals, and
- One barbed wire on top run of fence.
 - One plain wire and 75 cm high ringlock or hingejoint attached with three plain wires (top, middle and bottom), or
 - 90 cm high ringlock or hingejoint attached with three plain wires (top, middle and bottom).
- Strainer posts and stays are to be provided at end of lines and change of direction points.

Council may consider alternative standards equivalent to the above, but these must be approved by Council prior to construction.

Rural fencing

In areas where subdivision for the purpose of dwellings adjoin existing rural properties consideration to be given to the provision of stock and dog proof fencing with a tree line buffer. These measures are required to address the issue of domestic dogs and other animals impacting on rural activities/stock.

Requirements for bore water supply in Breadalbane and Dalton

In Breadalbane and Dalton, minimum lot size AA 50,000 square metres area, where bore water supply is proposed for subdivision and development, investigations are to be undertaken to ensure sufficient bore water supply is available and groundwater quality will be adequately protected as a result of development (including the impact of on-site disposal of waste water). Such investigations shall be submitted with the development application in the form of a bore water quality assessment/geotechnical report/permeability test prepared by a suitably qualified expert in that field. These reports shall address matters identified in Part 6 of the LEP

8.3 Rural Dwellings

Objective

These provisions apply to the development on dwellings within the rural zones, ensuring that this development is of an appropriate form and scale.

Controls

General controls

The general standards for dwelling houses proposed in Rural zones are:

- Orientate living areas to the north
- Front setback of 50 metres in the RU1 Primary Production Zone, RU2 Rural Landscape Zone and RU4 Rural Small Holdings Zones
- Side setback of 10 metres in the RU1 Primary Production Zone, RU2 Rural Landscape Zone and RU4 Rural Small Holdings Zones
- Dwelling siting and design materials and colours are to be consistent with the rural character of the local area:
 - Respect your neighbours and your own future amenity by careful siting of your dwelling:
 - build well back from the public roads, especially gravel roads,
 - build below ridgelines to respect the rural views,
 - build well away from nearby intensive rural developments (e.g. poultry sheds), and
 - notwithstanding the bushfire requirements, you can and should screen your building site by vegetation. It will help reduce the visual impacts of your buildings, provide shade from the summer sun, assist in energy efficiency and where natives are used, provide habitat for native fauna.
- Where significant environmental features, such as natural landforms, remnant native vegetation, wetlands or natural watercourses and drainage lines occur on your land, they shall be avoided for building purposes, conserved and enhanced, and
- Additional dwelling design principles and other relevant general controls are detailed in Section 4.

- Note:**
1. *Do not bring any unlawful temporary structures on site to live in, for example, shipping containers*
 2. *Remove any existing unlawful structures*

Site access

- All dwellings must have a lawful point of access and a properly constructed access by way of a public road. Where a new road is to be constructed it shall be constructed in accordance with the relevant provisions of Section 10.2
- Each dwelling is to be provided with an adequate all weather access to enable satisfactory vehicular passage from the public road into the allotment. Where kerb and guttering does not exist, this will generally require gravelling from the road shoulder to the boundary and in most cases will require the provision of a piped gutter crossing to the satisfaction of Council. A right-of-carriageway may be used to provide access only where the right-of-carriageway traverses only one lot of land and does not serve any other lot of land other than that on which the dwelling is erected, and
- Where an existing road or right-of-carriageway is substandard, it shall be improved to provide an all weather pavement to the satisfaction of Council.

Water supply

Every dwelling erected on land to which this Plan applies will be required to have not less than 45,000 litres of roof water storage for domestic purposes if a reticulated, disinfected water supply is not available.

Effluent disposal

If a reticulated sewerage or effluent disposal scheme is not available to the land, all effluent and wastewater shall be disposed of on-site. Each lot must have adequate area available for an on-site sewage management facility.

A wastewater management report will be required, to confirm acceptability of proposed effluent disposal sites.

The wastewater management report need not be a major undertaking but should consider factors such as soil profile to 1.5 metres, climate (mean monthly rainfall and evaporation rates), terrain, aspect, maximum potential effluent generation, the impact of any existing wastewater management system and the sizing of a sustainable effluent management area (EMA).

Reference should be made to the principles contained in the guidelines entitled 'On-site Sewage Management for Single Households' (Department of Local Government, 1998) and AS/NZS 1547-2000 'On-site Domestic Wastewater Management' (Standards Australia, 2000) in this regard. Properties located in the Sydney drinking water catchment will be subject to the provisions of the *Drinking Water Catchments Regional Environmental Plan No 1*.

The following are the recommended buffer distances (overland flow path) for effluent management areas:

- 150 metres from the major rivers, the Crookwell River, Lachlan River, Tarlo River, Bolong River and Abercrombie River, for full length of each river as defined on topographic maps
- 100 metres from other rivers, creeks and perennial watercourses
- 100 metres from intermittent watercourses, defined as having banks and beds or ponds or remaining wet for considerable periods between rainfall events and which may be characterised by supporting moisture tolerant vegetation
- 40 metres from drainage depressions, defined as low points that carry water during rainfall events but dry out quickly once rainfall has ceased
- 150 metres from Pejar Dam and Lake Wyangala, and
- 250 metres from a licenced bore (well)

Applicants should be aware that depending upon the abovementioned factors, the area of an existing single allotment within a Village may not be adequate for the on-site disposal of effluent. All on site wastewater systems are to operate in accordance with conditions of approval.

Electricity supply

An electricity supply must be provided to the dwelling in accordance with the requirements of Country Energy. Proposed alternative methods of power supply will be considered by Council for subdivision in RU1 Primary Production Zone and RU2 Rural Landscape Zone where the development is proposed as ecologically sustainable and a covenant is imposed on the land title requiring all dwellings to comply with BASIX Sustainability Index of 50 for energy and water. The approval of alternative methods of power supply is at the discretion of Council.

Vegetation retention

Proposed dwellings should be sited away from vegetation to avoid environmental conflict and the need for removal of vegetation to provide asset protection zones.

Buffers

Buffers between rural activities and rural dwellings are important to ensure that there are no adverse impacts on the amenity of the dwelling and to ensure that rural dwellings do not fragment good agricultural land. Buffer and separation distances should consider the potential for environment harm having regards to:

- Noise
- Odour or other air emission
- Water quality
- Visual impact
- Traffic generation

Buffers and separation distances should be provided in accordance with Table 4.

In order to achieve a satisfactory level of impacts, the buffer distance may need to be reduced below or increased above the values given. Where it is demonstrated that a reduced buffer or separation distance will achieve the desired outcomes, an alternative solution may be adopted at the discretion of Council. The alternative solution will need to give detailed consideration to landform, land uses, prevailing winds, etc.

Table 4: Buffers and separations distances for rural dwellings

Land Use	Separation Distance metres (m)	Vegetation Buffer metres (m)
Abattoirs	1,000 m	-
Cattle dip	500 m	-
Cattle feedlot (same land)	500 m	-
Cattle feedlot (other land)	1,000 m	-
Extractive industry or mine	1,000 m	-
Grazing lands	60 m	20 m
	80 m	-
High voltage power lines	20 m	-
Intensive dairies (same land)	500 m	-
Intensive dairies (other land)	1,000 m	-
Piggeries (same land)	500 m	-
Piggeries (other land)	1,000 m	-
Poultry farms (same land)	500 m	-
Poultry farms (other land)	2,000 m	-
Recreational facilities (major)	1,000 m	-
Rural industry	80 m	40 m
	150 m	-
Sawmills	1,000 m	-
Sewerage treatment plants	2,000 m	-
Waste management facilities	2,000 m	-
Wind turbine	2,000 m (non-host dwellings)	-

Temporary occupation of a rural shed

Temporary accommodation (habitable accommodation) within rural sheds during the construction of a rural dwelling is only permissible for a maximum period of 12 months where details of the proposed temporary accommodation (including timeframes) are approved in conjunction with the approval for the rural dwelling.

A toilet, shower, hand basin and fireplace may be constructed for amenity purposes in rural sheds provided the shed is not used for human habitation. These facilities will require the lodgement of a Section 68 Application under the *Local Government Act 1993*.

Temporary occupation of a caravan

Temporary occupation of a caravan during the construction of a rural dwelling is permissible in accordance with the 'Temporary occupation of a Caravan Policy'.

Adequate toilet/waste disposal facilities, water supply, electricity, clothes washing and food preparation facilities will generally be required in conjunction with the relevant approval.

8.4 Rural industries

Objective

To provide for business activities including the processing of primary products produced in the area or the servicing of agricultural equipment.

Controls

Measures that protect the amenity of surrounding residents should be incorporated into designs. These include landscaping, sound attenuation and buffers.

The following should be considered in selecting a site for a rural industry:

- less exposure to neighbouring dwellings and noise sensitive areas,
- good vehicular access,
- suitable area to accommodate landscaping to screen the rural industry,
- suitable land capability, and
- sufficient area for expansion.

Further information on Special Development Types (e.g. Poultry Farms, Wind Farms, Public Entertainment) is provided at Section 9.

8.5 Extractive industries

Objectives

These provisions have been prepared to ensure that extractive industries occur where the benefits of resource extraction are not overridden by potential impacts on the character and amenity of Upper Lachlan Shire or on identified environmental values.

Designated Development requirements

Part 1, item 19, Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* identifies extractive industry development that is defined as 'designated development' as follows:

- (1) *Extractive industries (being industries that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating):*
 - (a) *that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or*
 - (b) *that disturb or will disturb a total surface area of more than 2 hectares of land by:*
 - (i) *clearing or excavating, or*
 - (ii) *constructing dams, ponds, drains, roads or conveyors, or*
 - (iii) *storing or depositing overburden, extractive material or tailings, or*
 - (c) *that are located:*
 - (i) *in or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area, or*
 - (ii) *within 200 metres of a coastline, or*
 - (iii) *in an area of contaminated soil or acid sulphate soil, or*
 - (iv) *on land that slopes at more than 18 degrees to the horizontal, or*
 - (v) *if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or*
 - (vi) *within 500 metres of the site of another extractive industry that has operated during the last 5 years.*

In determining whether a proposal is designated development, each part of the definition must be considered. In respect to drinking water catchments, land affected by the provisions of Drinking Water Catchments Regional Environmental Plan No 1 (REP 1) and land within the drinking water catchments for any town/village water supply fall within a drinking water catchment and is therefore designated development.

All designated development requires consultation with the Department of Planning to obtain the Director-General requirements for the preparation of the necessary Environmental Impact Statement (EIS).

Controls

Site planning

- Extractive industries must be design and operated to ensure that:
 - There is appropriate buffering to protect adjoining uses from dust, acoustic and visual impacts
 - There is safe and suitable vehicle access, and
 - Public safety is a key consideration.
- Appropriate buffers must be provided around the development to manage potential impacts on surrounding residents. This should include extensive vegetation buffers.

Operations

- Vehicle access to the site and within the site must be:
 - Adequate for the scale and volume of traffic generated by the operation
 - Managed as not to increase risk on a public road, and
 - Managed to minimise the potential impact on the amenity of the surrounding area.
- All aspects of the extractive industry must be undertaken in compliance with all relevant legislative and statutory requirements.

Rehabilitation

- Rehabilitation must be in accordance with an approved plan (by Council) that identifies:
 - Staging of rehabilitation works
 - Appropriate remediation and clean up works
 - Reinstatement of landform and soil profiles, and
 - Suitable revegetation.
- Rehabilitation works must be bonded to ensure appropriate completion of works to Council's satisfaction.

8.6 Chemicals

Chemicals such as fuel, fertiliser and pesticide are commonly used to help run rural properties. These chemicals are often dangerous, some are flammable, most are poisonous and all can be harmful to the environment if used incorrectly.

Various training courses are available in regard to the safe handling and appropriate use of chemicals. These are independent of Council, however, provide information relevant to appropriate use of chemicals on rural properties to ensure adverse impact does not occur due to the incorrect use and application of chemicals.

9. Special Development Types

9.1 Poultry farms

Objectives

- To ensure poultry farm developments are appropriately located in terms of environmental, topographic and climatic factors
- To ensure poultry farm development sites are appropriate for long term operation
- To ensure poultry farm development does not adversely affect existing adjoining and adjacent development and properties
- To assist poultry producers in the management and operation of their farms through consideration of environmental, product quality, and human and animal health and welfare objectives
- To encourage best practice to minimise environmental impacts from proposed new and expanded poultry farm development
- To discourage further subdivision/development in proximity to existing poultry farm developments to minimise potential conflict between land uses
- To encourage the due consideration of the effects of proposed new development on existing poultry farms
- Ensure compliance with Ecologically Sustainable Development principles
- To ensure careful site selection, appropriate shed design and best practice management, and
- To ensure appropriate emergency management plans are produced in the event of a major disease outbreak or mass death event.

Designated Development requirements

Part 1, item 21(4), Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* identifies poultry farm development that is defined as 'designated development' as follows:

21 (4) Poultry farms for the commercial production of birds (such as domestic fowls, turkeys, ducks, geese, game birds and emus), whether as meat birds, layers or breeders, and whether as free range or shedded birds:

(a) that accommodate more than 250,000 birds, or

(b) that are located:

(i) within 100 metres of a natural waterbody or wetland, or

(ii) within a drinking water catchment, or

(iii) within 500 metres of another poultry farm, or

(iv) within 500 metres of a residential zone or 150 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

In determining whether a proposal is designated development, each part of the definition must be considered. In respect to drinking water catchments, land affected by the provisions of Drinking Water Catchments Regional Environmental Plan No 1 (REP 1) and land within the drinking water catchments for any town/village water supply fall within a drinking water catchment and is therefore designated development.

All designated development requires consultation with the Department of Planning to obtain the Director-General requirements for the preparation of the necessary Environmental Impact Statement (EIS).

Controls

Site Selection

Appropriate siting provides the most cost-effective way of dealing with environmental performance issues like odour, dust, noise and protection of waters. By considering and addressing these issues at the planning stage, ongoing operational costs and management issues will be significantly reduced.

Poultry farms should:

- Be located so that there is no unacceptable impacts on health and amenity of residents of the property, adjoining properties or surrounding area in regard to odour, dust, bioaerosols, noise and visual impacts,
- Be located within reasonable proximity to the processing plant, hatchery, feed mill, clean litter supply, labour and services to minimise the cost of transport and ensure long term viability,
- Have access to an adequate and reliable source of good quality water,
- Be located at the appropriate distance away from other poultry farms for biosecurity reasons,
- Consider separation distances for management of potential environmental impacts, and
- Where adjoining land is vacant or unoccupied, consider the impact on the potential future land use of adjoining land.

Poultry farms should not:

- Be located in natural hazard prone areas (e.g. bushfire or flood affected), and
- Be located near existing or potential sensitive land uses that are likely to be incompatible. Sensitive land uses can include dwellings, hospitals, schools and other places where people are present for extended time periods. Other sensitive land uses include waterways, wetlands and water catchments.

Square shaped lot sizes are preferable. They allow maximum farm layout, design options and allow greater separation distances from the boundaries.

Site Area

The site area required for a poultry farm will vary greatly depending on many variable factors such as the size of the operation, local climate and topographical features, surrounding land uses and proposed technology and management practices.

The property must be of sufficient size to accommodate the facilities required to support the development. These facilities include sheds, feed silos, amenities, storage sheds, roads, stockpile areas and dead bird storage. If there is to be on-site disposal of litter, sufficient land area is required. Also consideration must be given to management areas in the event that a mass disposal of dead birds is required.

The absolute minimum allotment size for poultry farm development shall be 200 hectares. However, it should be noted that 200 hectares may not be sufficient to meet all environmental requirements and accommodate all facilities. An on-site specific environmental assessment is required to determine the appropriate minimum site area for each poultry farm.

Separation Distances

Environmental impacts from a poultry farm vary according to the direction of prevailing winds, topography and other climatic factors (that is, cold air drainage) and this creates difficulties with using minimum distances.

Specific separation distances may not be sufficient to manage impacts of dust, odour or visual impacts. These Guidelines provide absolute minimum separation distances with the requirement for an assessment of the potential environmental impacts to determine the location of the poultry farm that will minimize environmental impacts.

These distances are absolute minimums and cannot be reduced. Final distances are dependent on a site specific environmental assessment and distances may increase from those provided in Table 5 below.

Table 5: Guide to minimum separation distances

Note: These distances are absolute minimums and final distances are dependent on a site specific environmental assessment

To property boundaries	Filtered 500 metres
	Unfiltered 1.0 kilometre
To existing dwelling on other land	2.0 kilometres
To existing dwelling on same land	500 metres
To another broiler farm	5.0 kilometres
To another breeding farm	5.0 kilometres
To a crown reserve road	400 metres
To a public road	400 metres
To a blue line drainage depression	40 metres
To a blue line intermittent watercourse	100 metres
To a blue line ephemeral or perennial creek or river	150 metres
To any major water storage area (domestic water supply or dam of capacity greater than 300 megalitres)	2.0 kilometres
To State Road 54 (Goulburn-Bathurst), Regional Road 248 (Boorowa-Taralga) and Regional Road 52 (Crookwell-Gunning)	400 metres
To any other Arterial or Classified Road	400 metres
To any zone boundary in which the development is permissible	5.0 kilometres
To the RU4 Rural Small Holdings, RU5 Village and R5 Large Lot Residential zones	5.0 kilometres

Landscaping

The proposal shall use natural screening and trees and provide advanced landscaping of sufficient height and density adequate to screen the development. The landscaping is to be established prior to commencement of the development. A landscape plan is to be submitted with the development application.

Catchment Areas

Poultry farm developments shall not be located in the catchment area for Crookwell, Gunning, Taralga and Dalton townships water supply or within the Pejar Dam catchment.

Water Management

The development site must be a zero discharge site hydrologically isolated from surrounding land surface waters and all drainage directed to a dedicated catchment dam designed along the following parameters:

- total storm capture for the catchment
- run off coefficient of one (1)
- 20 days rainfall capture, and
- up to 100th percentile event

Applicants are to comply with Landcom's Soils and Construction Managing Urban Stormwater 2004 Manual.

The applicant shall provide a detailed plan of how the dedicated catchment dam is to be adequately managed to ensure that the sufficient storage capacity is maintained.

A minimal quantity of potable water (about 45,000 litres/1,000 chickens shed capacity/year) is essential. This is based on 8 litres per chicken, which is the absolute minimum.

Water consumption can go as high as 25 litres per chicken in a hot dry period. Consequently if 8 litres standard is used then a reserve water supply will also be required to be provided (minimum of three days maximum usage).

Additional water is also needed for cleaning, cooling, landscaping, fire protection and domestic use.

Details of the source and quantity of water shall be provided.

An integrated water management plan prepared by a suitability qualified person shall be developed for the site, which addresses all aspects of the water cycle. The aim of the plan should be to maximise the potential for reuse and minimise water demand and the risk of water pollution. The management plan should evaluate reuse, demand management and pollution prevention options such as:

- Using rainwater tanks to utilise the significant catchment area on the roofs of the sheds to substitute water supplied from other sources and reduce stormwater impacts (any roof water collected for drinking or domestic use on-site should be monitored for bacteriological and chemical quality),
- Collecting, treating and storing stormwater and using it for dust control,
- Designing and locating poultry sheds to maximize the efficient use of water and minimise the need for water for evaporative cooling,
- The separation of clean and dirty stormwater and appropriate management arrangements for each, and
- Procedures to ensure adequate capacity in the catchment dam for stormwater management.

Potential impacts on groundwater quality, caused by the operation of the proposed facility, the proposed extraction of groundwater or contaminated recharge to the aquifer, should be identified and addressed. This should be discussed with reference to Water Quality Objectives by identifying beneficial and human uses and assessing the impacts against numerical criteria for indicators provided in the ANZECC (2000) Guidelines.

Development for intensive animal agriculture located in the SCA area should be consistent with the relevant requirements of REP No1. In order to ensure developments in the drinking water catchments have a neutral or beneficial effect on water quality, applicants should prepare development assessment documents with reference to the guidelines and information which are available on the SCA website.

Ground Water

Poultry farms are not to be constructed on areas with shallow ground water.

Poultry sheds and storage, stockpile and disposal areas for used litter and carcasses must have impermeable bases and adequate clearance to the ground water table to protect against ground water pollution.

Ground water vulnerability must be determined. The vulnerability of the ground water resource to pollution depends on the depth to the ground water, soil type and the nature of the aquifer systems in the region. A development in a vulnerable area will require more thorough assessment and investigation and will need more control strategies to ensure protection of the ground water resource.

A hydrological assessment and a program of test drilling are necessary to evaluate the groundwater resource protection measures for the proposed development.

With regard to requirements for the Environmental Impact Statement, the following information is to be included:

1. Any information with respect to the local groundwater resource, including:
 - water table position and known aquifer zones
 - hydraulic flow data
 - water quality data, such as chemical and biological analyses
 - results of any drilling and hydraulic tests
 - standing water levels of bores and any bore monitoring data collected, and
 - other relevant geological and hydrological information.
2. Discussion of the proposal's possible impacts on the local groundwater resource, particularly existing and potential land uses
3. Discussion of the potential for groundwater contamination from the development, and any preventative measures. This includes construction and implementation of the poultry farm operations, and other issues such as the on-site effluent management
4. Outline any proposed additional drilling and describe groundwater monitoring programs to be undertaken, including parameters to be tested, sampling intervals, and review period
5. Discussion of any environmental impacts on nearby ecosystems, such as groundwater dependent wetlands, nearby lakes, watercourses, or neighbouring properties, etc. and
6. Where groundwater is proposed as a source of water supply, all proposed water supply bores should be pump tested to obtain the long term sustainable yield of the resource, and the results of the drilling and testing be evaluated by a hydro geological professional

All bores, including any monitoring or investigation bores, sunk as part of the development, are to be licensed with the Department of Water and Energy.

Stormwater

A Stormwater Management Plan (SMP) is to be prepared and included in the Environmental Management Plan (EMP).

The SMP is required to address the following issues:

- Provisions to be made for the routing of clean stormwater around the development site and for the retention of potentially contaminated stormwater within the site,
- Details on the location of nearby watercourses, dams and lakes,
- Provision for adequate setbacks and other measures to watercourses, dams and lakes to prevent contamination by stormwater or wastewater runoff from the development,
- Shed bases elevated to prevent entry of stormwater,

- Litter stockpile and carcass disposal areas must be located, designed and managed to avoid stormwater entry,
- Bunding is often required to contain any stormwater that does enter these containment areas and this nutrient rich water should be directed to catchment dams or storage tanks,
- Keep clean stormwater separate from areas that may be affected by poultry farm wastes,
- Stormwater table drains to be established along all building lines to collect stormwater runoff from roof, road and hardstand apron areas to discharge into a catchment dam or filter within the property before release to the catchment,
- Table drains should be grassed and graded to avoid erosion and to catch sediment,
- In soil erosion prone areas, crushed rock traps and drops may need to be incorporated into the drainage system to slow down the water and minimise erosion,
- Run-off from the property should not be more than pre-development levels – retention dams may be required, these should have a 1 in 20 year storm capacity, and
- Excavated soil from dam construction should be retained and reused wherever possible.

Monitoring

A ground and surface water monitoring program is to be developed. This shall include details of parameters to be tested, sampling intervals and review period and the monitoring organisation.

Access

The proposal must front a bitumen sealed two lane road. In circumstances where a proposal does not comply with this requirement the proponent will be required to contribute the full cost for the upgrading to RTA standards and bitumen sealing of any road to ensure compliance.

The internal access road within the development site is to be constructed to a minimum width of 4 metres. All car parking and turning areas as well as the internal access road are to be constructed providing at least a gravel pavement incorporating adequate drainage and soil erosion control measures to the requirements of the Director of Works at the applicant's full cost.

Section 94 Contributions will also apply.

Waste Management

Dead birds

The proposed method/s of disposal of dead birds is to be detailed.

The following are methods of dead bird disposal generally available for routine deaths:

- Composting in appropriately designed and managed litter heaps complying with best practice standards;
- Appropriately maintained composters of approved capacity;
- Offsite burial in an authorised land fill or recycling facility;
- Offsite composting and rendering; or
- Incineration.

An emergency management plan for disposal in the event of mass poultry mortality (e.g. due to a disease outbreak), is required as part of the development application. This must clearly identify how it is intended to dispose of mass mortalities, including location and details of waste disposal methods.

Details of the disposal method, location and number of carcasses will need to be submitted to Council as an ongoing monitoring process as part of any development consent for both routine mortality as well as mass mortality.

Poultry litter

The environmental impact of the storage and use of poultry litter must be adequately addressed. The Department of Industry and Investment – Primary Industries provides guidelines for the storage and use of poultry litter (*NSW Agriculture, 1998 Best Practice Guidelines for using poultry litter on pastures. NSW Agriculture Agnote DPI-212 1998*). Of particular relevance is the information provided on nutrient budgeting on site.

Options for poultry litter include offsite removal and direct land (on-site) application.

- Offsite removal:
 - Details of likely types of end users of poultry litter are to be provided. For example, direct delivery to farms, commercial reuse (compost/pellet making).
- On-site use:
 - Where organic by-products, manure, spent litter and composted dead birds are to be used as part of a land application strategy, the applicant must demonstrate how the management strategy will meet the following objectives:
 - Effective use of both nutrient and organic components of the organic by-products, manure, spent litter and composted dead birds,
 - Protection from land degradation – soil structural decline and salinisation,
 - Protection of groundwater resources from nutrient pollution,
 - Protection of surface waters from nutrient and particulate pollution, and
 - Maintenance of community amenity, that is, human health risk, odour, noise and visual impact minimisation.

The NSW Department of Industry and Investment – Primary Industries Guidelines should be used in the preparation of details on the proposed methods for management of poultry litter.

Other wastes, by-products

Recycling of other wastes and by-products, like used packaging, scratch trays, boxes and feed bags, is encouraged. If recycling is not possible, then appropriate and safe disposal shall be arranged. Waste will not be allowed to accumulate at the development site as this can be a harbour for pests and vermin.

The applicant shall report to Council and NSW Department of Industry and Investment – Primary Industries, significant bird deaths on a particular day identifying the disposal method and location.

Power

The site must have reliable access to three phase power and be provided with a back-up generator in case of power failure.

Shed Construction

Sheds shall be constructed and designed to provide:

- Tunnel ventilation with the fan end of the shed, where the air exits orientated to have minimal impact on neighbours. Naturally ventilated sheds will be considered in circumstances where separation distances exceed the minimum distances specified,
- Appropriate dust filters in all circumstances,
- Orientation so that the long axis of the sheds is aligned east-west is the preferred option. However shed orientation needs to be balanced with topographic and meteorological constraints. e.g. fans of tunnel ventilated sheds should be oriented to have no impact on the neighbours and an elevated site is preferred for natural ventilation and drainage but sites where cold air drainage can carry odour down to residences should be avoided,
- Concrete floors and aprons on a level site are considered best practice. Compacted impermeable dirt floors will only be considered in areas where there is no risk of ground water contamination,
- Bunded water catchment areas around sheds or the shed complex, and
- Measures to ensure the sheds will not permit the entry of wild birds, vermin and rodents.

Transportation

Details of all proposed transport movements are to be submitted – vehicle type/capacity, frequency of movement, hours and days, movement type (delivery of feed, pick up of grown birds),

A Transport Management Plan will be required to address all transport related matters to ensure any adverse impacts are appropriately addressed and comply with the CSIRO Model Code of Practice for the Land Transport of Poultry.

Vehicles are to be covered to ensure there is no escape of feathers from any transported birds.

Litter

Used litter may be completely cleaned out at the end of each batch or cleaned out after several batches.

The reuse of poultry litter may require development consent, and if on-site, shall form part of the submitted development application.

Litter reuse on pastures offsite within the Shire may require Council consent. Details of proposed offsite disposal shall be provided with the development application.

Litter reuse on pastures outside the Shire may require a licence from the Environment Protection Authority.

Where the land application of litter is proposed, a nutrient balance is to be undertaken. The nutrient balance involves matching litter application rates to the rate of crop uptake, taking into consideration the nutrient store of the soil and water infiltration. Measures to prevent the movement of pollutants from the application site are to be detailed. Typically, litter is spread at the rate of approximately 15cubic metres/ha/year.

Litter shall not be disposed of in the following areas:

- 150 metres to the major rivers in the catchment for the full length of each river as defined on topographic maps,
- 100 metres from other rivers, creeks and perennial watercourses,
- 100 metres from intermittent watercourses, defined as having banks and beds or ponds or remaining wet for considerable periods between rainfall events and which may be characterised by supporting moisture tolerant vegetation,
- 40 metres from drainage depressions, defined as low points that carry water during rainfall events but dry out quickly once rainfall has ceased, or
- 100 metres maximum from all property boundaries (note: width of the buffer will depend on slope and ground cover and any litter stored on site or offsite shall be in a covered bunded area with appropriate in place erosion control measures e.g. sediment fencing).

Fauna and Flora

As a minimum, this will require the submission of the eight part test pursuant to Section 5A of the Act in the form of a flora and fauna assessment.

As a maximum, depending on the eight part test outcome, this will require a Species Impact Statement (SIS).

SIS preparation will require consultation with the DECCW.

Flooding

The proposed development site shall be above the level of flooding with an average recurrent interval of 1 in 100 years.

Hazardous Chemicals

Hazardous chemicals are required to be used for pest control disease management.

Applicants shall demonstrate consultation with Work Cover on the technical and management safeguards to be employed in their storage and use.

Environmental Impact

An Environmental Management Plan (EMP) is required to be developed and implemented to address measures to minimise environmental risks and contingencies for managing environmental problems. An EMP is required at the development application stage and would form part of any development consent. The EMP is site specific and prepared to meet the objectives, criteria and best practice of this industry to include:

- Odour
- Dust
- Noise
- Pest management
- Surface and ground water management
- Soils
- Chemical use
- Community complaints and liaison
- Visual impacts and landscaping
- Management of waste and nutrient reuse, and
- Light

Disease Control

A disease control program will need to be designed and implemented.

Details of disease control will need to be addressed at the development application stage and a detailed management program will be required as part of any development consent.

Pest Control

Pests and vermin control strategies will need to be designed and implemented.

A management strategy is required to:

- Eliminate breeding site and harbours
- Exclude access to poultry houses, food and water, and
- Maintain control programs

Details of pest control will need to be addressed at the development application stage and a detailed management strategy will be required as part of any development consent.

Socio-Economic Considerations

The satisfactory location of poultry developments is dependent on economic factors, location of support infrastructure and availability of services.

Economic factors (access and distance to markets), support infrastructure (processing plants, breeder farms, feed mills, labour and advisory services), and service availability, (reliable provision of power, fuel, water and other supplies) must all be addressed in detail.

Animal Welfare

Any proposed poultry farm development is required to ensure that it complies with welfare requirements for housing, lighting, ventilation, temperature, protection, food and water.

Risk Management

A contingency plan is to be prepared by the proponent to deal with emergencies such as flood, fire, mass bird deaths, chemical spills, other accidents and power and water interruption. A list of risk events and responses is to be prepared using risk management principles.

Documentation

The following documents will need to be submitted with the application:

- Three copies of plans of the site drawn to scale showing location of buildings, dams, siltation traps, buildings on adjoining lots, existing vegetation, drainage lines, and site contours in relation to lot boundaries. Distances are to be clearly documented. Preferably no larger than A3 size
- Three copies of floor plans and elevation of proposed buildings, including materials and colours. Preferably no larger than A3 size
- Plans must show adjoining land use and identify all buildings within 500m to the proposed farm site and be no larger than A3 size
- Application Fees (Council and Agency fees)
- Landscape Plan including revegetation techniques/strategies for all disturbed areas)
- Integrated Water Management Plan (Soil and Water Management Plan)
- Conceptual Erosion and Sediment Control (E&SC) plan sufficient to enable any reviewer to determine that the proposed E&SC measures are sound and practical
- Assessment reports for:
 - Odour impact
 - Air quality impact (including dust)
 - Noise
 - Bush fire evaluation
 - Flora and Fauna/cultural heritage assessment
 - Poultry litter disposal, and
 - Whole of property environmental management, outside of the development area to:
 - manage weeds and feral animals
 - protect and enhance nature conservation values of the land and sensitive adjoining Nature Reserves and National Parks [a 3 kilometre buffer area to National Parks and Nature Reserves is recommended]
 - integrate landscape/screening revegetation with surrounding lands, and
 - address offsite or downstream environmental impacts.

The above shall be incorporated into an Environmental Impact Statement, which shall also contain material to satisfy the specifications required by the Department of Planning and other relevant Authority requirements.

Note: Reference should also be made to guidelines that the Department of Industry and Investment – Agriculture have prepared in regard to Poultry farm development.

9.2 Animal boarding or training establishment, including boarding and/or breeding kennels for dogs and cats in rural areas

Objectives

- To ensure new kennel development implements best practice design.
- To ensure applicants undertake all necessary measures to minimise the impacts on adjoining land uses.

Controls

Distance of kennels from residential dwellings

No kennels are to be erected within 200 metres of any adjoining residential dwellings.

Exercising of dogs

Dogs are to be exercised under supervision in a purpose built area/enclosure located on-site.

Acoustical compliance

Any building used for the housing of animals is to be soundly constructed and soundproofed to prevent any noise nuisance. Noise levels emitted from the premises are not to exceed 5dB(A) above the existing background levels. The occupation of the kennels will not be permitted until Council is furnished with a certificate from an Acoustic Engineer to this effect.

Storage and preparation of food

All feed is to be stored and prepared in a properly constructed building capable of being easily cleaned, maintained and kept free of vermin.

Animal confinement

Dogs and cats shall at all times be kept within the confines of the kennels and exercise yards except during their receipt or release.

Storage and disposal of excrement

All excremental waste and loose hair, if not removed immediately, is to be collected in an impervious fly-proof container which is to be emptied and cleansed at least once in every seven consecutive days. All such wastes shall be deposited at a Council agreed waste disposal depot and shall not be incinerated or buried on the premises

Drainage

The kennel drainage system shall be constructed so as to ensure the collection of all waste water which shall then be transported through earthenware or plastic pipe to a suitable arrestor pit thence to a properly constructed absorption drain. Details of all proposed drainage are to be submitted and approved by Council.

Landscaping

The proposal shall use natural screening and trees and provide landscaping of sufficient height and density adequate to screen the development. The landscaping is to be established prior to commencement of the development. A landscape plan is to be submitted with the development application.

Environmental management plan

An environmental management plan which addresses, but is not limited to the following matters:

- | | |
|---|---------------------------------|
| • Treatment and disposal of litter and effluent | • Erosion control measures |
| • Odour management | • Water and drainage management |
| • Noise management | • Chemicals and fuel storage |
| • Food storage and vermin control | • Complaints register |
| | • Landscape plan |

9.3 Highway Service Centres

Objective

To provide environmental controls and guidelines to facilitate the proper development of direct access service centres on the Hume and Federal Highways.

Controls

To provide environmental controls and guidelines to facilitate the proper development of direct access service centres on the Hume and Federal Highways.

Visual impacts

- The visual impact of the development of the service centres is a product of many factors including building design, height and landscaping,
- Service centres shall be generally screened from view from adjoining land uses such as dwellings. Screening shall be achieved through the appropriate use of landscaping,
- The land between the entry and exit ramps of each service centre shall be landscaped to provide general screening of the service centres,
- No roof should have a highly reflective surface, any metal roof should have a colourbond or equivalent finish in a colour approved by Council,
- No advertising structures shall be higher than the parapets or ridges of buildings to which they are attached, and
- Flagpoles or other similar structures shall be considered on their merits.

Acoustic impacts

- Development shall comply with relevant noise management guidelines published by the DECCW,
- Noise mitigation measures shall be provided to ensure compliance with adopted guidelines, and
- Any proposed noise barriers shall be designed and constructed in a manner that minimises their visual impact. This may involve a combination of different materials, the use of earth mounding and extensive screen landscaping.

Lighting

- Lighting of the service centres shall be provided in a manner so as to:
 - minimise impacts on the amenity of existing and future residences in the locality, and
 - not affect traffic safety on the Highway.
- Matters that should be addressed in the design of lighting are the:
 - intensity of lights,
 - mounting height of lamps,
 - use of shields on lamps, and
 - reduction in the extent of lighting of the site during night time non-peak periods

Traffic arrangements

- Access ramps to the service centres are to comply with the requirements of the Roads and Traffic Authority,
- The minimum distance between the access ramps of the service centres and the ramps to the nearest interchange shall be no less than two kilometres,

- Vehicular access to the sites shall be restricted to access from the Highway only,
- The design of internal circulation roads should discourage excessive speed. It is suggested that on-site speeds in excess of 15 kilometres per hour be discouraged,
- Vehicle types shall be separated as soon as possible after leaving the entry ramp. Separate refuelling and parking areas shall be provided for cars and trucks/buses,
- The location of service centres shall be adequately advertised through the use of advanced warning signs on the Highway in accordance with Roads and Traffic Authority guidelines,
- Council shall determine the level of provision of on-site parking having consideration to the following:
 - Council's requirements under Section 4.6 of this Plan
 - the requirements of the Roads and Traffic Authority and their guidelines published in Policy Guidelines and Procedures for Traffic Generating Developments,
 - the projected increase in traffic using the Highway, and
 - the policy or intentions of the Roads and Traffic Authority in permitting other direct access service centres on the Freeway in the future.
- Overflow parking areas shall be provided to cater for peak parking demand,
- Adequate land shall be available on-site to allow for an increase in parking provision if required in future. Future parking requirements shall be assessed on the increase in traffic flows and the likelihood of additional service centres being provided to cater for increased demand,
- Staff and customer parking shall be separated with customer parking provided as close as possible to proposed facilities, and
- Pedestrian access to the service centres shall be prohibited by the use of appropriate fencing along the Highway boundaries of the sites.

Design guidelines

- The design of all buildings shall be generally consistent or complementary architecture, building materials and colours,
- Advertising signs shall only display the corporate names of facilities provided within the service centres and the services provided therein. Advertising signs displaying the following will not be permitted:
 - Product names of retail items regardless whether sold within the service centres, and
 - Services, goods or any other information not directly associated with the service centres.
- Advertising signs shall be of a consistent design and shall be consolidated onto as few advertising structures as is practical,
- All buildings shall be setback a minimum distance of 25 metres from the Highway reservation, and
- Advertising structures shall generally be prohibited from being placed within the required 25 metre setback. Exceptions to this will only occur if the applicant can satisfy Council that such structures are necessary to the operation of the Service Centres.

Services

- Development shall not be permitted unless adequate means for the disposal of effluent are provided to the satisfaction of Council. Land application of treated effluent will not be permitted.

9.4 Telecommunications

Objectives

- To provide controls for the design and siting of telecommunication and radio-communication facilities that require development consent, and
- To provide guidance to service providers about Council's requirements for site selection, design, lodging an application, and conducting community consultation.

Controls

These provisions apply to telecommunication and radio-communications facilities, its supporting infrastructure and ancillary development under the *Telecommunications Act 1997*, Telecommunications Code of Practice 1997, *Radiocommunications Act 1992* and *Telecommunications (Low-impact Facilities) Determination 1997*.

The provisions of the Act mean that Council consent is required for 'non-low impact facilities'. Consent is not required for 'low impact facilities', although the development of such must comply with the Australian Communication Industry Forum (ACIF) code with respect to notification and consultation for low – impact facilities.

These provisions do not apply to a number of temporary facilities including, but not limited to, those for use by, or on behalf of, a defence organisation for defence purposes as described under the *Telecommunications Act 1997*. In addition, other facilities may also be exempt, in accordance with Division 4 of Part 1.4 of the *Radiocommunications Act 1992*.

The following relates to all facilities defined as Non-Low Impact facilities and which require a development application to be lodged with Council.

Design control

- Council shall refer all applications involving towers and the like over 30 metres to the Department of Communications Information Technology and the Civil Aviation Safety Authority for comment
- Facilities, including all associated infrastructure, should be designed and installed having regard to the requirements of all relevant Australian Standards, and
- Facilities should be designed and installed in compliance with the requirements of the ACMA guide – Accessing and Installing Telecommunications Facilities – A Guide October 1999.

Visual amenity

- Service providers are to design antennas and supporting infrastructure in such a way as to minimise the visual impact from the public domain and adjacent areas
- Where possible the facility must be integrated with the design and appearance of the building or infrastructure on which it is located. Where this is not possible this must be justified in writing
- The following design features must be taken into account: colour, texture, form, and bulk and scale
- Facilities and all associated infrastructure must:
 - be well-designed
 - be painted in colours selected to match the colour scheme of the building unless otherwise justified in writing to Council

- be integrated with the existing building structure unless otherwise justified in writing to Council
- have concealed cables where practical and appropriate
- be unobtrusive where possible, and
- be consistent with the character of the surrounding area.
- Facilities including associated infrastructure must be removed when no longer being used
- Facilities including associated infrastructure must be suitably proportioned in size in relation to the building to which they are attached or adjoin, and
- The site must be restored following construction of the facility and its associated infrastructure.

Co-location

- Co-location is the practice of locating a number of different telecommunication facilities, often owned by different service provider's, on one facility or structure
- Where possible and practicable, telecommunication lines should be located within any existing underground conduit or duct. Antennae and similar structures should be attached to existing utility poles, towers, structures, buildings or other telecommunication facilities, so as to minimise visual impact, and
- Co-location may not always be a desirable option where:
 - cumulative emissions are a consideration
 - it may be visually unacceptable
 - there are physical and technical limits to the amount of infrastructure that structures are able to support, and
 - the required coverage cannot be achieved from the location

Siting

- The applicant is to demonstrate that, in selecting a site, it has adopted a precautionary approach in regards to minimising EMR exposure consistent with clause 5.1 of the ACIF Code
- Preferred land uses for location (as determined by Council) include industrial areas and commercial centres
- Where possible, facilities are to be located away from the street frontage or any public or private property adjacent to the site to reduce visual impact and adequately setback from the perimeter wall or roof edge of buildings
- Facilities should be installed so that they do not encroach upon any easements, right-of-ways, vehicular access or parking spaces required for the property, and
- Noise caused by the facility must not result in the transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of habitable use.

Heritage and environment

Facilities proposed for areas of environmental significance (as defined in the LIF Determination) require that:

- a development application to be lodged, demonstrating compliance with the LEP and the provisions of this Plan,
- the applicant is to avoid or minimise the visual impact of any proposed facility on the heritage significance of adjacent/adjoining/surrounding heritage items and conservation areas,
- the applicant is to provide a heritage report/impact statement in accordance with the LEP,
- the applicant is to avoid or minimise the physical impact of any proposed facility on threatened entities listed under *Threatened Species Conservation Act 1995* and the *Commonwealth Environment Protection and Biodiversity Conservation Act*, including threatened fauna and flora species, their habitat and endangered ecological communities
- the service provider is required to notify the Environment Secretary of the Commonwealth Department of Environment and Heritage in accordance with clause 4.18(4) of the Telecommunications Code of Practice 1997, Council should be provided with a copy of this document along with any supporting studies accompanying this notification, and
- the applicant is to employ their utmost care to protect and conserve any possible archaeological relics, places and sites in the path of their activities.

Facility physical design controls

- the facility and all related infrastructure must be of high quality design and construction
- proposals should consider the range of available alternate infrastructure including new technologies, to minimise unnecessary or incidental electromagnetic radiation (EMR) emissions and exposures, as required under clause 5.2.3 of the ACIF Code
- the plan for the facility must include measures to restrict public access to the antenna(s). Approaches to the antenna(s) must contain appropriate signs warning of EMR and providing contact details for the facility(ies) owner/manager
- where relevant, applicant shall adhere to the minimum BCA requirements for facility structural and construction elements and the relevant exposure levels as directed by ACMA, and
- the applicant must provide Council with certification about the relevant building code standards with which the facility will comply.

Facility health controls

- the applicant is to demonstrate the precautions it has taken to minimise EMR exposures to the public
- the applicant is to provide documentation to show that the proposed facility complies with the relevant Australian exposure standard as specified by the ACMA
- the applicant is to provide a mapped analysis of cumulative EMR effect of the proposal, and
- telecommunication and radio communication facilities are to be designed, installed and operated to comply with current standards relating to human exposure to electromagnetic energy appearing in any applicable code or standard made.

9.5 Wind farms

The following provisions must be addressed when designing a commercial wind farm in the Shire and preparing the development application.

For the purposes of this Plan, commercial wind power generation includes wind power generation turbine(s) or towers with a peak capacity of power rated output greater than 10kW. The erection of a wind monitoring tower also requires Council's consent.

Objectives

- To provide development controls and guidelines that assist in achieving the objectives of the LEP,
- To ensure sufficient information is included with each development application to enable proper assessment,
- To minimise potential land use conflicts,
- To ensure road access and other issues are identified and sufficient information is included with each development application to enable proper assessment, and
- To ensure that adequate provisions are made to restore developed land at the end of the life of the development.

State Significant Development

As at the date of commencement of this Plan, the Minister for Planning has determined that the following criteria are used for State Significant Development [as defined by Schedule 1 of State Environmental Planning Policy (Major Development) 2005]:

- If the development has a capital investment value of more than \$30 million, or
- If the development has a capital investment value of more than \$5 million and is located in an environmentally sensitive area of State significance.

Any development meeting these criteria, or any criteria which replace them, is required to lodge the development application with the Department of Planning. Developers should refer to the requirements of Part 3A of the Act.

Statement of Environmental Effects (SEE) or Environmental Impact Statement (EIS)

The development application must be accompanied by a Statement of Environmental Effects (SEE) or Environmental Impact Statement (EIS) depending on the size of the proposal. Applicants should refer to the Act and associated legislation for the latest requirements for Designated and Integrated development.

The SEE or EIS as a minimum shall contain the following information:

- The location of the property, land contours, boundary dimensions and site area. This should include a map of 1:25,000 scale showing the location of the proposed development, the route of transmission lines to the electricity grid (and include access road, pylon, gradient and erosion control assessments), the service roads on and to the site, and the proximity to significant features such as dwellings, environmentally sensitive land, prime crop and pasture land, forests, national parks, heritage items and aircraft facilities.
- The site plan or plans showing positions of the proposed wind turbines, site boundaries, land contours, native vegetation, the proposed vehicular access points, the location of existing and proposed vegetation and trees on the land, the location and uses of all existing and proposed buildings, power lines, sub-station and fences on the land.

- A description of the proposed wind turbine/s, including all relevant details such as number, make, model, dimensions, generation capacity materials and colour.
- A land use description of the adjoining land and/or affected lands and landscape including assessment of the likely future impact.
- A noise impact assessment demonstrating compliance with the Department of Environment, Climate Change and Water licensing requirements (whether a licence is required or not) which references the South Australian Environment Protection Authority (EPA) Wind farms environmental noise guidelines (July 2009). The application shall also detail proposed monitoring program(s) to validate predicted noise impacts on neighbouring properties. The impact of The Van Den Berg effect is also to be considered.
- A description and assessment of the visual effects including photomontages, plate or panoramic photomontages, computer assisted photo simulations or other graphic representations of the appearance of the wind turbines and transmission lines. Viewshed modelling via the use of a suitable GIS (e.g. "MapInfo") is encouraged. Shadow prediction and shadow flicker assessments shall be included in the visual assessment(s).
- An evaluation of the electromagnetic radiation and/or interference from the wind turbines and/or transmission lines. This should include impacts on human and animal health and local television and radio reception and other local communications.
- A construction program and environmental management plan incorporating the proposed staging of the project, erosion and sedimentation controls, heavy vehicle movements, site access including all service roads, transmission towers, substation, underground wiring, construction phase impacts including facilities, waste disposal, staff/contractor numbers etc, weed control, farm impacts and all other works.
- An evaluation of flora and fauna impacts with specific mention of migratory species potentially impacted by the development. Where the development is in close proximity to known habitats of threatened species, early consultation with the Department of Environment, Climate Change and Water is highly recommended.
- A decommissioning and site restoration plan and program.
- All of the relevant issues in the Planning NSW EIA Guidelines and the NSW Wind Energy Handbook (NSW Department of Industry and Investment) current at the time of the application (*Please note that this Handbook was published in 2002 and some information is no longer valid. In particular, the reader is advised to seek updated information regarding 'The wind energy market' (Section 3) and 'Planning issues for wind farms in NSW' (Section 5).*)
- Demonstration that all issues raised by relevant Agencies have been addressed (e.g. CASA for aviation safety, SCA for water quality issues etc.)
- The heritage significance of the site and surrounds. Reference shall include Council's LEP, the Heritage Branch, Department of Environment, Climate Change and Water, the National Trust of Australia and the Australian Heritage Council (Australian Government). The Wind Farm and Heritage Policy (Draft) prepared by the former NSW Heritage Office shall also be referenced.
- An assessment of any risks involved in soil disturbance, including contamination impacts on hydrology and archaeological issues.
- Assessment of the development regarding all relevant legislation and applicable policies. See item (q) of this Plan for some of these listings.

Note 1: Applicants are encouraged to keep the local community fully informed throughout their design process.

Note 2: Additional information may be required depending upon the circumstances of the development proposal and level of detail, and accuracy provided within the development application.

Controls

The following must be included as part of the design criteria and assessment of any related development application:

- a. The development should be sited and carried out to minimise impacts on, or restrictions to grazing, farming and forestry practices;
- b. The development should be carried out in a way that minimises any physical adverse effects on adjoining land and the development site, including, but not limited to:
 - (i) land degradation
 - (ii) alteration to drainage patterns
 - (iii) pollution of ground water
 - (iv) spread of noxious plants and animals, and
 - (v) bushfire hazard
- c. The developer must assess the visual impact of the project including an assessment of scenic value. The developer must consult with the Council and the community on appropriate visual impact measures;
- d. The developer must assess the cumulative impact of the development having regard to wind farms in existence and those approved but yet to be constructed. Council does not favour large expanses of ridgelines being covered with wind farms and turbines;
- e. Proposed wind turbines shall comply with the South Australian Environment Protection Authority Wind farms environmental noise guidelines (July 2009) or any replacement guidelines. Note that where noise levels are found to exceed those guidelines, Council may require remediation work such as the cessation or decommissioning of the turbines to reduce the noise impacts on sensitive receptors such as non-related dwellings. The developer shall also furnish all data that has been collected on Infrasound levels that would occur at a representative sample of neighbouring non-host residences;
- f. Turbines shall not be located within 2.0 kilometres of any dwelling not associated with the development or from any lot upon which a dwelling may be constructed. The 2.0 kilometre setback proposes utilising a precautionary principle in addressing perceived visual and health concerns;
- g. Turbines shall not be located within a distance two times the height of the turbine (including the tip of the blade) from a formed public road. A greater distance may be required by the road authority;
- h. Turbines shall not be located within a distance two times the height of the turbine (including the tip of the blade) from a non-related property boundary;
- i. Existing and proposed screenings may be used to minimise visual impacts to non-related properties. However, due to the height of turbines, screening is not the preferred method of minimising visual impact. Turbines shall be located in positions so as to have minimal visual impact on nearby properties, especially existing dwellings and lots on which dwellings may be constructed;
- j. Turbine locations are to be sensitive to existing related dwellings on the subject site. Noise and shadow flicker should be minimised and turbines should not be located in close proximity to existing dwellings;
- k. Turbine locations shall not surround a non-related property. Turbines shall be located with the specified setbacks from property boundaries to minimise the visual impact of the development on adjacent and nearby non-related property. Cumulative impacts, having regard to existing turbines and turbines approved but yet to be constructed, should be assessed;

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- l. A Communications Study should identify the existing status of communications and detail the proposed method of dealing with potential communication interference. Developers are advised that many parts of the Upper Lachlan Shire have very poor radio, TV, mobile phone, two way reception and the like. The development should not detract from the reception of any of these or other communication methods. Where necessary, it may be required to install additional services (boosters/communication towers/ re-transmission towers etc) to maintain such services in the vicinity of the development. Where this is determined to be necessary, the work and equipment shall be at the developers cost;
 - m. Construction vehicles, including concrete trucks, carriers of turbine components, and related heavy vehicles (including relevant contractors) shall only travel on an approved route. This route shall be identified and approved in accordance with this Plan;
 - n. A report detailing investigations into the impact of construction vehicles on the proposed route shall accompany the development application. Detailed road condition reports will be required as part of any consent. Council requires the use of the ARRB 'laser car' and 'gypsy camera' for this purpose;
 - o. Council will require road works to cope with the over size and overweight traffic movements related to the construction of a wind farm. Bonds will also be required for any potential damage to roads during the construction phase. The road works and bond amounts will be determined by Council professional staff, but will be determined generally by the length of road and condition of road surface/base bridge, drainage etc relevant to the selected route. Where road works are determined necessary for the development, costs associated with the road works shall be the developer's responsibility;
 - p. The construction and maintenance of internal roads (roads within the property subject to the development) shall be the responsibility of the developer. Council will require proof that they have been adequately designed and constructed for their purpose. Council and relevant State Government Agencies shall be provided with adequate information about the environmental aspects of the internal road construction;
 - q. All infrastructure related to the wind farm should be included in the development application. Management of temporary facilities, waste, numbers of contractors/employees, etc, should be part of the Development Application information. All infrastructure should be located in low visual impact locations and interconnection cables/wiring and the like should be underground;
 - r. Developers shall consider and refer to the Department of Planning's NSW Wind Energy Environmental Impact Assessment Guidelines, the NSW Wind Energy Handbook, Best Practice Guidelines for implementation of Wind Energy projects in Australia (AusWEA), South Australian Environment Protection Authority Wind farms environmental noise guidelines (July 2009) and all other relevant policies and legislation applicable to the proposed development. Reference to relevant Council policies and documents shall also be made;
 - s. If appropriate, the development application should include details of a viewing area where safe vehicle and pedestrian movements can view the wind farm. The developer should liaise with relevant officers of Council's Works and Operation Department and the RTA regarding any proposed viewing area;
 - t. Within six months of the wind turbine generators ceasing to operate, any rights of carriageways that were created to enable maintenance to be conducted on the wind turbine generators are to be extinguished by the developer and the land made good, unless otherwise agreed with the landowner.
 - u. Within twelve months of the wind turbine generators ceasing to operate, they are to be fully dismantled and removed from the site. A security guarantee/bond is to be lodged with the consent authority (prior to any work commencing on-site) in an amount determined by the consent authority to cover the cost of dismantling and removal of the turbines; and
 - v. Details of the proposed connection to the electricity reticulation network shall be included as part of the Development Application Environmental Assessment.

Other Aspects

Notification

On lodgement of the DA, Council will notify property owners within a 5 kilometre radius of the development in addition to the requirements outlined in Section 3.14 of the DCP. All submissions received will be presented to the Council (or the Minister) for their consideration in the assessment and determination process. Where Council is the consent authority, Council will hold a notification and submission period of not less than 60 days and will require the developer to hold a minimum of one public information night during the exhibition and submission period. The developer shall undertake additional consultation with the community and affected property owners.

Community Enhancement Program

Prior to the commencement of construction, the proponent is to prepare a Community Enhancement Program prepared in consultation with the local community and Council to be funded by the proponent at a minimum rate of \$2,500 per constructed turbine per annum (indexed to the consumer price index for Sydney (Housing) commencing at the September 2010 quarter).

Infrastructure

Much of Council's road network is generally not capable of sustaining the overweight loads involved with wind farms and will require substantial upgrading to accommodate the wind farm construction vehicles. Appropriate bonds will be required to ensure any road damage is repaired to Council's satisfaction. Such bonds are payable prior to commencement of any works on the site. Road sealing shall be required where appropriate on unsealed public roads utilised by the proponent.

Consultation with State Government Authorities

Proponents are advised to consult with public authorities that may have a role in assessing their development application. Council may consult the following Agencies in connection with the development application:

- Department of Planning
- Heritage Branch (Department of Planning)
- Department of Environment, Climate Change and Water
- Primary Industries (Department of Industry and Investment)
- Roads and Traffic Authority of NSW (Department of Transport and Infrastructure)
- Sydney Catchment Authority (SCA)
- The relevant Catchment Management Authority
- Civil Aviation Safety Authority (CASA)
- Australian Rail Track Corporation
- NSW Rural Fire Service (Department of Police and Emergency Services)

Other agencies and community groups shall also be consulted. It is recommended that the proponent identify and consult with local groups that may be interested in their development prior to lodgement of the development application.

9.6 Public entertainment in rural zones

Objectives

- To ensure that 'public entertainment' festivals in rural areas do not have unacceptable environmental and amenity impacts on existing rural communities; and
- To ensure that adequate public safety, health and security contingencies are in place for the patrons.

Controls

Required pre festival consultation

Consultation is required with the following service providers:

- Rural Fire Service's zone office
- NSW Goulburn Police
- NSW Ambulance Service Goulburn
- Medical services
- Upper Lachlan Shire Council
- Country Energy

Matters to be addressed in development applications

Notwithstanding, other provisions of this plan the following additional issues are to be addressed and included as part of the development application process:

- Evidence of consultation with the service providers and the actions taken as recommended by those service providers;
- Traffic safety and management provisions to be detailed in a traffic management plan including but not limited to:
 - Parking and road access for conventional two wheel drive vehicles;
 - Dust suppression measures on public roads and at the venue; and
 - Emergency escape access routes (e.g. in a bushfire situation).
- Noise level mitigation measures proposed for the nearest residence;
- Festival duration time and performance times;
- Bushfire requirements including notification to the rural fire service, any required permits, identified emergency escape access routes and on site fire suppression measures and fire fighting water availability;
- Public safety and security protocols to be put in place for the festival venue and for surrounding rural properties;
- Emergency contingency plans in case of:
 - Illegal drug use and alcohol abuse;
 - Removal of festival patrons for whatever reason;
 - Emergency medical attention for injuries received on site, e.g. snake bite, serious falls, camping incidents, drug and alcohol overdose, heat exhaustion etc; and
 - Unruly social behaviour.

- Public health arrangements and facilities to be provided for:
 - Food and potable water supply;
 - Power supply;
 - Sanitary fixtures;
 - Toilet arrangements;
 - Accommodation, including temporary structures and camping arrangements;
 - Waste disposal, during and after the festival; and
 - Evacuation contingencies.
- Insurance arrangements, including public liability and duty of care to those attending the venue;
- Transport arrangements to and from venue. Often rural locations are remote from public transport. Detail measures to be used if the need arises to remove patrons for whatever reason (e.g. festival bus); and
- Number of events per property shall be limited to a maximum period of 30 days in any period of 12 months.

9.7 Advertising signage

Objectives

The objective of these provisions is to facilitate the development of signage where it complements and does not detract from the desirable characteristics of the natural and built environment.

Controls

- Signage and advertisements must:
 - Be complimentary to the design and proportions of the buildings and structures on which they are placed
 - Be sympathetic to the desirable character and amenity of the surrounding locality having regard to:
 - location and siting
 - height and size, and
 - layout and colour
 - Not dominate or oppress the visual landscape
 - Not create or contribute to visual clutter, and
 - Not impact on vistas, views or other important public space
- Signage and advertisements must be designed, sited and constructed to ensure they do not represent a risk from a public safety perspective, including not causing significant visual or physical obstruction to pedestrians or vehicular traffic;
- Internally or externally lit signage must not cause unreasonable disturbance to any surrounding uses or the general environment;
- Highway signage must be of a scale and design such that it is consistent with the desirable character for the highway corridor; and
- Signage and advertisements adjacent to or located on a place of heritage value must be designed and constructed to be sympathetic and compatible with these values.

Design assessment criteria – SEPP 64 Advertising and Signage

SEPP 64 identifies specific requirements for signage statutory assessment processes that need to be considered prior to determination of a development application for signage. Information on these requirements must be submitted with the development application to Council.

9.8 Child care centres fronting classified roads

- (1) These provisions apply to development for child care centres which propose vehicle access to a classified road or access within 90 metres of a classified road.
- (2) Development consent must not be granted for this type of development unless the Council and RTA are satisfied that vehicular access will be undertaken in a safe manner and that adequate traffic safety arrangements are introduced.

9.9 Development in Sydney's Drinking Water Catchments

The Sydney Catchment Authority (SCA) manages and protects Sydney's drinking water catchments through the regulation of developments in the catchment areas, consistent with the *Drinking Water Catchments Regional Environmental Plan No 1* (REP 1) or its equivalent.

Land within Sydney's drinking water catchments must be developed in accordance with the requirements of the REP.

Objectives

- To ensure water catchments deliver high quality water while sustaining diverse and prosperous communities,
- To improve water quality in degraded areas where quality is not suitable for the relevant environmental values, and
- To maintain or improve water quality where it is currently suitable for the relevant environmental values.

Controls

Under the REP, Council cannot grant development consent unless it is satisfied the development will have a neutral or beneficial effect on water quality. In assessing whether a proposed development has a neutral or beneficial effect on water quality, Council must be satisfied that:

- the development has no identifiable potential impact on water quality; or
- will contain any such impact on the site of the development and prevent it from reaching any watercourse, waterbody or drainage depression on the site; or
- will transfer any such impact outside the site by treatment in a facility to the required standard and disposal approved by the consent authority; and
- the development incorporates the SCA's current recommended practices (or equivalent standards and practices) which represent best industry or development practice in terms of maintaining water quality.

Any proposed development which Council believes does not have a neutral or beneficial effect on water quality must be referred by Council to the SCA, for a decision on concurrence, before development approval can be given. The SCA in granting concurrence may impose conditions to ensure a neutral and beneficial impact on water quality. If the SCA is not satisfied a neutral and beneficial impact on water quality can be achieved, concurrence will be withheld and Council will not be able to approve the development. For information on the REP and the SCA's current recommended practices, applicants should refer to the SCA's website at www.sca.nsw.gov.au

To enable Council and the SCA to assess whether a development will have a neutral or beneficial effect on water quality, all development applications in the drinking water catchments must be accompanied by a *Water Cycle Management Study*. The contents of a Water Cycle Management Study, including the information, reports and modelling required, will vary according to the type of development and the risks it poses to water quality, with more in depth studies required for developments that pose a higher risk. The SCA has published the *Neutral or Beneficial Effect on Water Quality Assessment Guidelines* to assist councils and applicants (available on the SCA's website at www.sca.nsw.gov.au) which categorises developments into five modules according to complexity and the risk to water quality.

A *Water Cycle Management Study* accompanying a development application must include the following components:

- Clearly outline the development proposed, including a detailed site plan which includes site constraints
- A summary and location of the water quality control measures proposed as part of the development
- A statement, based on the information in the Water Cycle Management Study, as to whether the development has a neutral or beneficial effect on water quality, consistent with the SCA's *Neutral or Beneficial Effect on Water Quality Assessment Guidelines*.

In addition, the Water Cycle Management Study should contain the following reports or modelling:

Development type	Information required in the <i>Water Cycle Management Study</i>
Minor developments which represent a very low risk to water quality. Limited to very minor alterations and additions to residential houses in <u>sewered</u> areas	<ul style="list-style-type: none"> • An assessment, consistent with the SCA's <i>Neutral or Beneficial Effect on Water Quality Assessment Guidelines</i>, as to whether the development will have any identifiable potential impact on water quality. If there are any potential impacts then the development requires the information outlined in <i>Module 1</i>.
<i>Module 1</i> Less complex developments which represent a minor risk to water quality. These include typically new single dwellings, dual occupancy or townhouses, or alterations and additions to existing dwellings, in <u>sewered</u> areas.	<ul style="list-style-type: none"> • Modelling using the Small-scale Stormwater Quality Model • Conceptual erosion and sediment controls to be applied during construction
<i>Module 2</i> Less complex developments which represent a medium risk to water quality. These include typically new single dwellings, dual occupancy or townhouses, or alterations and additions to existing dwellings, in <u>unsewered</u> areas.	<ul style="list-style-type: none"> • Modelling using the Small-scale Stormwater Quality Model • Conceptual erosion and sediment controls to be applied during construction • On-site Wastewater Management Report
<i>Module 3</i> Developments considered to be moderately complex which represent a medium to high risk to water quality. These include typically multi-dwelling housing and small lot residential subdivisions in <u>sewered</u> areas	<ul style="list-style-type: none"> • Stormwater quality modelling (using either the Small-scale Stormwater Quality Model or the MUSIC stormwater quality model) • Conceptual Erosion and Sediment Control Plan or a more detailed conceptual Soil and Water Management Plan
<i>Module 4</i> Developments considered to be moderately complex which represent a high risk to water quality. These include typically multi-dwelling housing and residential subdivisions in <u>unsewered</u> areas	<ul style="list-style-type: none"> • Stormwater quality modelling (using either the Small-scale Stormwater Quality Model or the MUSIC stormwater quality model) • Conceptual Erosion and Sediment Control Plan or a more detailed conceptual Soil and Water Management Plan • On-site Wastewater Management Report
<i>Module 5</i> Developments considered to be highly complex or non-standard developments which represent the highest risk to water quality. These include typically major industrial and commercial developments, and agriculture developments such as intensive livestock farms and intensive plant growing, extractive industries and tourism and recreational developments.	<ul style="list-style-type: none"> • Stormwater quality modelling (using either the Small-scale Stormwater Quality Model or the MUSIC stormwater quality model) • Conceptual Soil and Water Management Plan • On-site Wastewater Management Report (if relevant) • Development specific pollutant assessment requirements

9.10 Any other development not specified in this Plan

In the event that there is development proposed that is not addressed by this Plan, Council will provide guidance for development based on the nearest compatible type of land use and will also draw from information available from relevant State Agencies/Government Departments. The objective for Council will be to ensure that the development meets the objectives of the LEP, relevant zones and this Plan.

10. Engineering requirements

10.1 Utility services

Objectives

To provide satisfactory utility services to the development site.

Controls

Applicants are to provide connections to the following services where available to the site:

- Water (reticulated town water supply)
- Sewerage (reticulated gravity sewerage system)
- Telephone
- Electricity

Applicants are advised to liaise with the Telstra (telephone), Country Energy (electricity) and Council (water and sewer) or other accredited providers as to the availability of these services, prior to submission of development applications.

10.2 Roads

10.2.1 Urban

Residential roads must be designed and constructed in accordance with the provisions outlined in Table 3, Section 5 of the Plan.

10.2.2 Rural

Road design and construction

All proposed public roads are required to be constructed to Council's version of AUSTROADS Design and Construction Specifications.

(a) Rural (Zones RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry)

All proposed public roads will be required to be constructed to the following standards:

- Minimum road reserve width of twenty (20) metres
- 8 metre wide formation with bitumen seal 7.0 metres wide, in the following locations:
 - Originating from an existing bitumen sealed road
 - Originating from any classified road
 - All roads constructed in zones with a minimum lot size of 100 hectares or less.
- Gravel pavement to the following requirements in zones with a Minimum Lot Size greater than 100 hectares:
 - Servicing one allotment – 4.0 metres wide
 - Servicing up to four (4) allotments – 6.0 metres wide,
 - Servicing more than four (4) allotments – 8.0 metres wide,

- Compacted gravel pavement depth to be a minimum of one hundred and fifty millimetres (150 mm). Additional pavement depths may be specified by Council's Works Division in locations where there are high or heavy traffic volumes.

- Notes:**
1. *Bitumen seal shall be double 14/7mm bituminous seal, even where the road joins to a gravel road,*
 2. *A Bus Stopping area will be required in subdivisions of 5 or more lots. The Bus Stopping area is to be constructed as per RERO Guidelines to service both directions.*

(b) Rural Small Holdings (Zone RU4)

All proposed public roads will be required to be constructed in accordance with (a) above and to be bitumen sealed.

(c) Residential (Zones R2 and R5) and Village (Zone RU5)

All proposed public roads will be required to be constructed to requirements in accordance with the Table 3 at Section 5 and to be bitumen sealed.

(d) Industrial (Zone IN2)

Minimum carriageway width of 13 metres and minimum verge of 3.5 metres. All roads are to be bitumen sealed.

Prior to a development application being lodged, all proposed roads shall have the centre line marked at not greater than 100 metre intervals by durable stakes, not less than 50 mm in diameter, set firmly into the ground with not less than one metre projecting vertically and painted red. Marking by a hand held GPS unit is sufficient for preliminary assessment.

Driveway access

Legal and physical access is to be provided to all lots to Council standards. This is to be provided at the developers cost. On all Council controlled roads the following controls apply:

- The entrance gateway is to be setback 17 metres from the edge of the road formation. See Figure 14 – Rural Local Road – Typical Property Access (sheets 1 to 4).
- Where required, the installation of 3 x 375 mm RCP with precast headwalls or similar will be necessary (minimum length 4.88 metres). The culvert is to be installed with cover and bedding requirements in accordance with manufacturers recommendations based on the design load and class of pipe.
- Provision of a vehicle access of 200 mm consolidated thickness of approved gravel, minimum 4.0 metres wide at the entrance gateway and 8.0 metres wide at the edge of the road pavement. Where the road pavement is sealed, from the edge of the road pavement to be gateway is to be sealed with a double 14/7 mm bituminous seal.

Where the access is proposed to enter onto a Classified/Main Road [Roads and Traffic Authority (RTA) road], the approval of the RTA is required.

Council's Work's Department will complete an inspection of the proposed access prior to the issue of the notice of determination.

Rights of Carriageway

Constructed with a 4.0 metre wide gravel pavement and compacted thickness 150 mm thick with drainage structures designed in accordance with AUSTROADS specifications.

10.2.3 Crown Roads

Development that requires vehicular access along Crown Roads has to be provided with legal and physical access in a dedicated public road reserve. Therefore the applicant is required to meet the full costs of transferring the Crown Road to a Public Road and the full costs of upgrading the former Crown Road to the same standards as set out in Section 10.2

10.2.4 Unmaintained Council controlled Public Roads

Development that requires vehicular access along an unmaintained or unformed public road reserve is required to be provided with a formed road to the standards as set out in Section 10.2. The full cost of this work is to be met by the developer/applicant. Council's Works Department will take regard of the potential for future traffic movements for adjacent lots in specifying the standard of road works required to service the proposed lot or subdivision.

However, for very small rural developments (involving up to two properties/dwellings), the following minimum road standards will apply:

- 150 mm gravel depth and crowned to shed water
- 6 metre road formation
- Guide posts as per standards
- Table drains to manage stormwater
- Concrete culverts with headwalls to be installed at watercourse crossings. The culvert size to be determined by design based on catchment or a minimum 450 mm diameter
- Fencing to Council standards on both sides
- All work to be performed by a Council approved contractor
- Schematic drawings required
- Council will not maintain these roads

10.3 Easements

Easements are required in accordance with Section 88B of the *Conveyancing Act 1919*.

Easements will typically be required under the following circumstances:

- Sewerage and water supply easements shall be created over all existing and proposed sewer and water lines
- Where applicable, easements for batter and support shall be created over lots in accordance with approved engineering plans
- All existing and proposed rights of carriageway shall be legalised, minimum 20 metre wide easement
- Easements for electricity purposes, if required, shall be created over existing and proposed electricity lines
- Drainage reserves (or easements in exceptional circumstances) shall be created over proposed stormwater drainage lines (including flood ways and overland flow paths), in accordance with the Council's standards, and
- Easements for the purposes of overland flow paths, retardation basins and detention basins and reserves shall be dedicated to Council free of cost and appropriately indicated on the plan of subdivision.

All easements and drainage reserves must be registered prior to development commencing use/operation.

10.4 Building over sewer

Objectives

Council is responsible for the operations and maintenance of the reticulated sewerage system. The aim of this Section is to ensure that property owners exercise certain precautions when proposing to build over or adjacent to Council sewer mains. These are necessary to register or reduce as far as possible the need for future maintenance on sewer mains that have buildings in their vicinity.

Controls

Council does not support building over sewer mains. In exceptional cases, this may be permissible. The Applicant will need to demonstrate that the proposed development will not adversely impact on the sewer and the ability of Council to operate and maintain the infrastructure is not constrained. Any development, where it is proposed to build over a sewer, the design must be consistent with Council's Policy for Building Over Sewers and relevant documentation submitted with the development application.

10.5 Staging of development in expanded village areas and the provision of essential infrastructure

Objectives

To ensure the expansion of village areas and the provision of infrastructure is provided in a staged approach which will deliver improved efficiencies and sustainability for long term growth and operation.

Controls

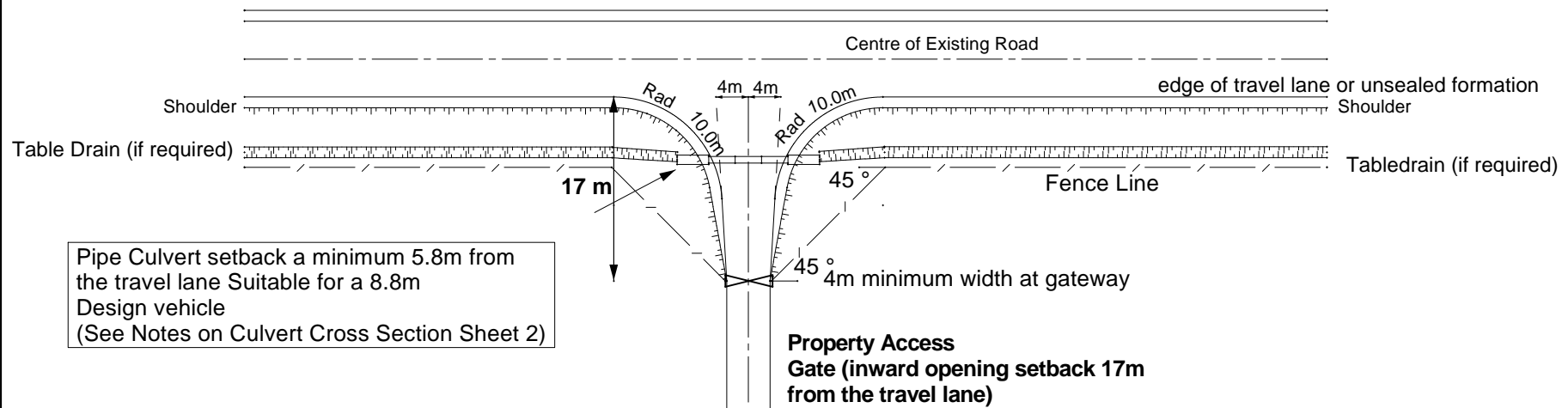
Development and infrastructure development are undertaken in an approach that:

- Ensures appropriate capacity to meet the current and future needs of the development site
- Is integrated with and efficiently extends existing networks
- Minimises risk to life and property
- Minimises risk of environmental harm
- Minimises whole of life cycle costs
- Can be easily and efficiently maintained
- Minimises potable water demand and wastewater production

Figure 14 – Rural Local Road – Typical Property Access

Sheets 1 to 4 are provided on the following 4 pages

Standard 17m Indented Access



Notes

1. Property Access

- (a) There must be sufficient length between the edge of the road to store the largest parked design vehicle to allow the occupants to open the entrance.

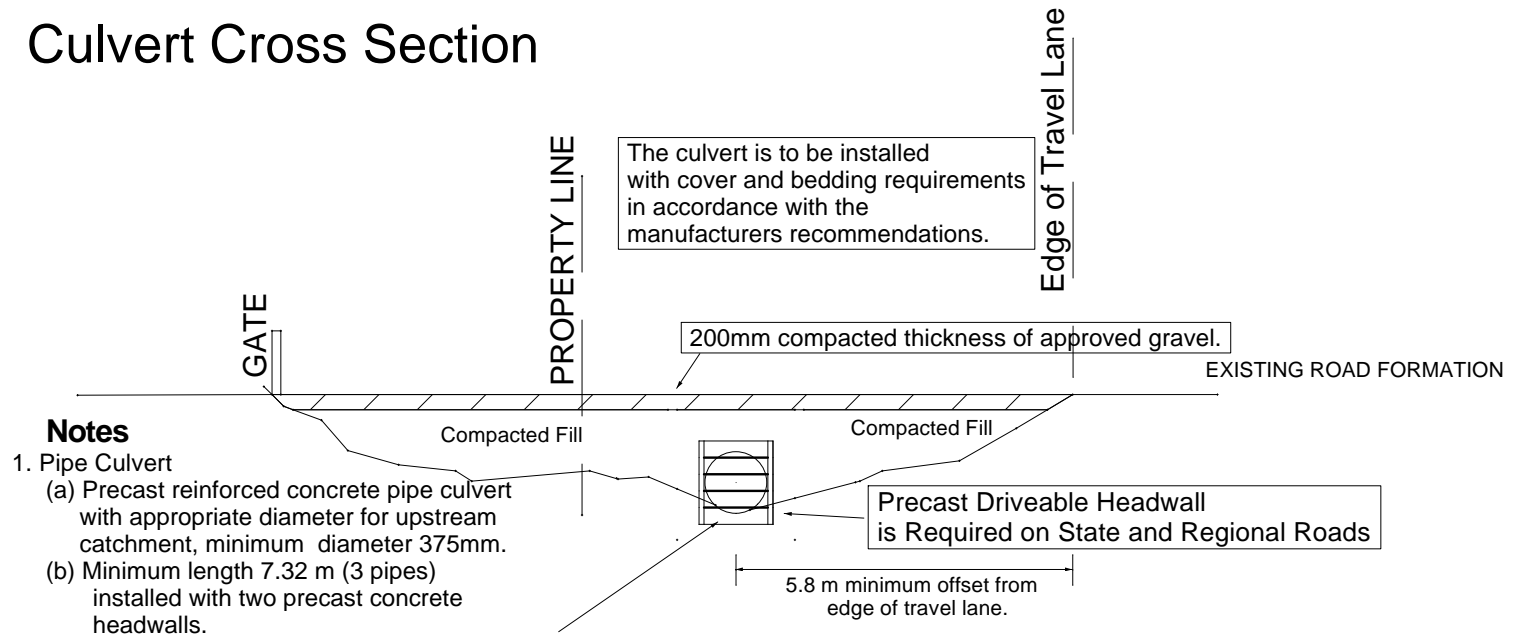
- (b) A minimum length of 17m is required to store a single unit truck .
- (c) A stock grid is the alternate control on the boundary where storage length is not available.
- (d) If B-Doubles are anticipated then a 25.0m indentation is required.
- (e) Drivable headwalls

Source : Modified from RTA Road Design Guide
Section 4.9.4

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STANDARD DRAWING				 UPPER LACHLAN SHIRE COUNCIL 44 Spring Street Crookwell 2583 Ph: (02) 48301000 Fax: (02) 48322066 ABN: 81 011 241 552	NAME		DATE	APPROVED  P. Newham DIRECTOR OF WORKS & OPERATIONS		
					DRAWN:	C.Smart	20-7-10			
AMENDMENTS		DATE	CHECKED		CHECKED:	P.B. Newham	20-7-10			
A	ORIGINAL ISSUE	19-2-10	RPM		REDUCTION RATIO: NTS					
B	MODIFIED CULVERT TYPE & LOCATION	27-5-10	PN	RURAL LOCAL ROAD TYPICAL PROPERTY ACCESS LAYOUT SKETCH				SHEET No. 1 of 4	DRAWING NUMBER: 2010-1	DATE: 20-7-10
C	MODIFIED NOTES	20-7-10	PN							

Culvert Cross Section



Notes

1. Pipe Culvert
 - (a) Precast reinforced concrete pipe culvert with appropriate diameter for upstream catchment, minimum diameter 375mm.
 - (b) Minimum length 7.32 m (3 pipes) installed with two precast concrete headwalls.
 - (c) The culvert is to be installed to the manufacturers recommendations.
 - (d) Install guideposts at each end of the culvert.
 - (e) Minimum pipe grade 1 in 100 or (1%).
 - (f) The pipe is to cater for a minimum 5 year Average Recurrence Interval (ARI) storm.
 - (g) A 900mm wide concrete dish drain is to be constructed if a culvert is not required.

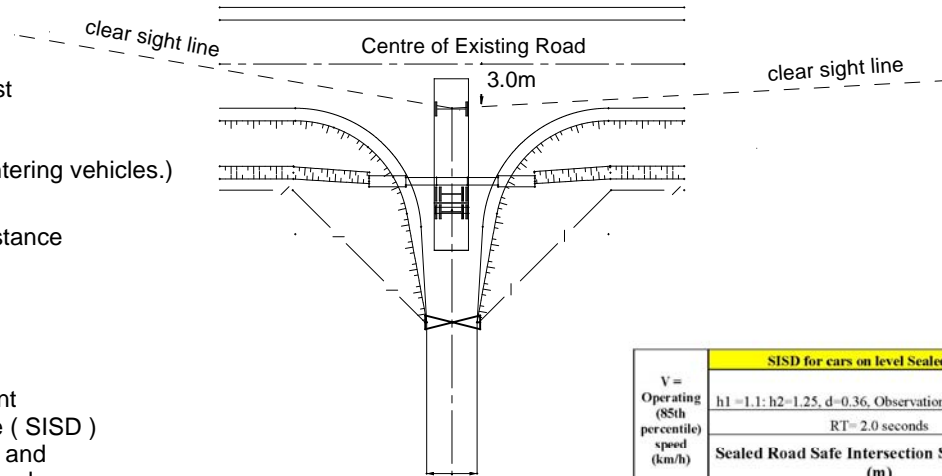
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B	MODIFIED CULVERT TYPE & LOCATION	27-5-10	PN					
C	MODIFIED NOTES	20-7-10	PN					
				RURAL LOCAL ROAD TYPICAL PROPERTY ACCESS CULVERT CROSS SECTION				

Sight Distance

Notes

1. Safe Intersection sight distance must be provided for the through traffic and 5 seconds minimum gap sight distance (1.15m to 0.6m for entering vehicles.)
2. There should be adequate sight distance to and from the access point.
3. Roadside landscaping should not restrict horizontal and vertical sight lines.
4. Using Table 1.0 & Table 2.0 adjacent the Safe Intersection Sight Distance (SISD) can be calculated for a given speed and corrected for the road longitudinal grade.



Safe Intersection Sight Distance (SISD)

Where;

SISD = Safe Intersection Sight Distance

D_t = Decision Time (s) = Observation Time (3s) + Reaction time

V = Operating (85th percentile speed (km/h)

d = coefficient of deceleration

a = longitudinal grade in % in direction of travel

(positive for uphill and negative for downhill)

$$SISD = \frac{D_t \times V}{3.6} + \frac{V^2}{254 \times (d + 0.01 \times a)}$$

Table 1.0

V = Operating (85 th percentile) speed (km/h)	SISD for cars on level Sealed Roads	SISD for cars on level unsealed roads
	$h_1 = 1.1; h_2 = 1.25, d = 0.36, \text{Observation Time } 3 \text{ seconds}$	$h_1 = 1.1; h_2 = 1.25, d = 0.27, \text{Observation Time } 3 \text{ seconds}$
	$RT = 2.0 \text{ seconds}$	$R_T = 2.0 \text{ seconds}$
	Scaled Road Safe Intersection Sight Distance (m)	Unsealed Road Safe Intersection Sight Distance (m)
40	73	79
50	97	106
60	123	136
70	151	169
80	181	204
90	214	243
100	248	285

Table 2.0

Corrections due to grade (%)	-8%	-6%	-4%	-2%	2%	4%	6%	8%
40	5	3	2	1	-1	-2	-2	-3
50	8	5	3	2	-1	-3	-4	-5
60	11	8	5	2	-2	-4	-6	-7
70	15	11	7	3	-3	-5	-8	-10
80	20	14	9	4	-4	-7	-10	-13
90	25	18	11	5	-5	-9	-13	-16
100	31	22	14	6	-6	-11	-16	-20


Note: 1. Calculated looking towards the intersection
2. Corrected stopping sight distances should be rounded conservatively to the nearest 5m

Sedimentation and Erosion Control

Notes

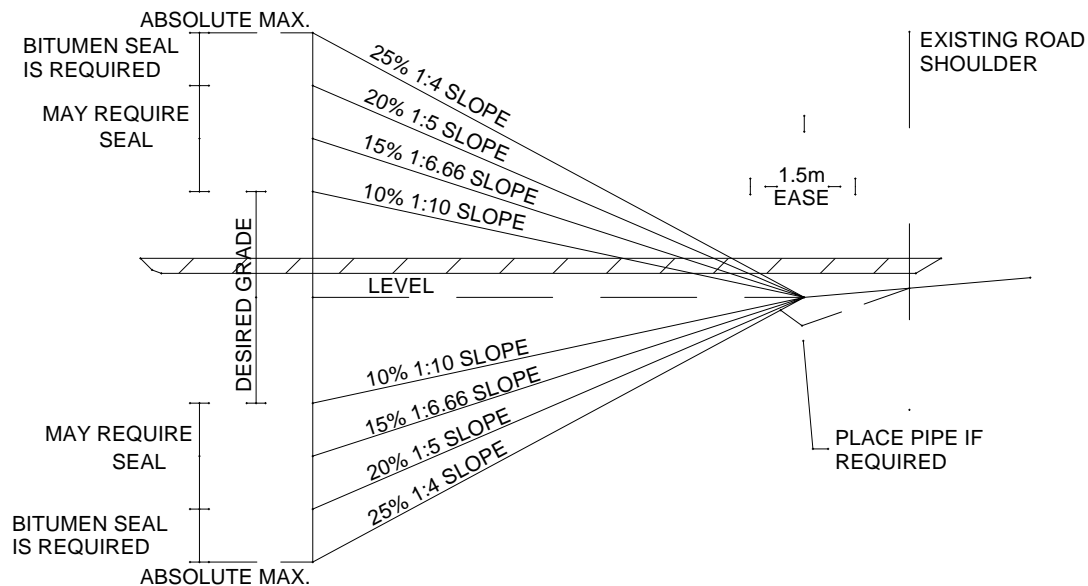
1. The work is to provide for erosion & sedimentation control measures and be in accordance and follow best management practices as outlined in the NSW Department of Housing's "Managing Urban Storm Water: Soils & Construction" March 2004 manual 'The Blue book'
2. The standard drawings shown in this manual are to be adopted and used in the installation for each Property Access.
3. Erosion and sediment control measures are required to be implemented prior to any work commencing and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering any river system.

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RURAL LOCAL ROAD TYPICAL PROPERTY ACCESS SIGHT DISTANCE / SEDIMENTATION & EROSION CONTROL				REDUCTION RATIO: NTS		P.B. Newham DIRECTOR OF WORKS & OPERATIONS DATE: 20-7-10																	
				SHEET No. 3 of 4	DRAWING NUMBER: 2010-1																		

Access Slope

NOTE: A Bitumen Seal is required on all accesses onto existing bitumen roads



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B	MODIFIED CULVERT TYPE & LOCATION	27-5-10	PN					
C	MODIFIED NOTES	20-7-10	PN					

**RURAL LOCAL ROAD
TYPICAL PROPERTY ACCESS
ACCESS SLOPE**

Appendix A – Wind Farm Planning Agreement

Planning Agreement

The Minister for Planning (if Part 3A)

The Upper Lachlan Shire Council

(Company)

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Planning Agreement

Date

Between the parties

The Minister for Planning

ABN 38 755 709 681 of 23-33 Bridge Street, Sydney NSW 2000

(Minister)

The Upper Lachlan Shire Council

ABN 81 011 241 552 of 44 Spring Street, Crookwell NSW 2580

(Council)

(Company)

Recitals

1

2

This deed witnesses as follows:

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
<i>Auditor</i>	an appropriately qualified accountant appointed by the Committee.
<i>Committee</i>	the committee established to administer the Community Enhancement Fund in accordance with the DCP comprising the Mayor or Councillor Delegate, General Manager of the Council, Two (2) Non-host Community Representatives and Authorised Representative of Funding Organisation or host community representative.
<i>Contribution Year</i>	means every 12 month period from 1 July in each year.
<i>Construction Certificate</i>	has the meaning contained in the EP&A Act.
<i>Development</i>	(Insert description).
<i>Community Enhancement Fund</i>	the fund to be established and administered by the Council to implement the Community Enhancement Program in accordance with the DCP.
<i>Costs</i>	includes costs, charges and expenses, including those incurred in connection with advisers.
<i>DCP</i>	the <i>Upper Lachlan Development Control Plan 2010</i> as amended from time to time.
<i>EP&A Act</i>	the <i>Environmental Planning and Assessment Act 1979 (NSW)</i> as amended from time to time.
<i>Index Number</i>	the Consumer Price Index for Sydney (Housing) for the September quarter or equivalent index published from time to time by the Australian Bureau of Statistics.
<i>Land</i>	(Insert description)
<i>Local Projects</i>	any projects proposed to be carried out within the Upper Lachlan Shire Council local government area which are aimed at: <ol style="list-style-type: none">1. enhancing any aspect of the local environment including, but not limited to, ameliorating any impacts from the Wind Farm; or2. providing any community service or facility.
<i>Monetary Contribution</i>	A minimum rate of \$2,500 per Operating Turbine as adjusted in accordance with clause 5(b) of this deed.
<i>Operating Turbine</i>	each wind turbine constructed and commissioned as part of the Development during any part of the relevant Contribution Year.
<i>Part 3A Approval</i>	project approval under section 75J of the EP&A Act. (if applicable)
<i>Mediator</i>	a person appointed as mediator under clause 12.5 of this deed.

1.2 Interpretation

- (a) Clause headings are for convenience only and will be ignored in the interpretation of this deed.
- (b) References to a party include the successors and permitted assigns of that party.
- (c) Words importing the singular include the plural and words importing the plural include the singular.
- (d) Words importing a person include a corporation, firm or body corporate.
- (e) Nothing contained in this deed will be deemed or construed as creating the relationship of partnership.
- (f) References to a month mean a calendar month and a reference to a year means a calendar year.
- (g) References to any document include any permitted amendment, supplement to or replacement or novation of the document.
- (h) References to any legislation or to any section or provision of any legislation includes any:
 - (1) statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision; or
 - (2) ordinances, by-laws, regulations and other statutory provision substituted for that legislation, section or provision.
- (i) Other grammatical forms of defined words or expressions have corresponding meanings.
- (j) 'Including' and similar expressions are not words of limitation.

2 Planning Agreement

The parties agree that this deed is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the EP&A Act.

3 Application of this deed

This deed applies to application for development consent/Part 3A approval (as appropriate) made in relation to the Development which is proposed to be constructed on the Land.

4 Operation of this deed

The parties agree that this deed will not operate or bind the parties unless and until the last of the following to occur:

- (a) Development consent/Part 3A approval is granted to the Development; and
- (b) the Company obtains a Construction Certificate for any part of the Development.

5 Payment of the Monetary Contribution

- (a) The Company must pay to the Council the Monetary Contribution in arrears on 1 July of each year for each turbine which was an Operating Turbine during the preceding Contribution Year.
- (b) The parties agree that the Monetary Contribution will be reviewed on 1 July of each year in accordance with the following formula:

$$MC = \frac{A \times B}{C}$$

Where:

MC = the Monetary Contribution payable for the following Contribution Year;

A = the Monetary Contribution payable during the Contribution Year just ended;

B = the Index Number last published before the end of the Contribution Year just ended; and

C = the Index Number last published before the commencement of the Contribution Year just ended.

- (c) The obligation of the Company to pay any Monetary Contributions under this deed will cease on the date which all of the Operating Turbines are decommissioned.
- (d) The parties agree that the Monetary Contribution paid in accordance with this deed will have the public purpose of facilitating approved Local Projects.

6 Overdue payments

- (a) In addition to the Monetary Contribution the Company agrees to pay interest on any amount payable by it under this deed from when it becomes due for payment, during the period that it remains unpaid, on demand or at times determined by the Council Committee, calculated on daily balances. The rate to be applied to each daily balance is the rate 2% per annum above the Bank Bill Rate.
- (b) Interest which is not paid when due for payment may be capitalised by the Council at intervals which the Council determines from time to time or, if no determination is made, then on the first day of each month. Interest is payable on capitalised interest at the rate and in the manner referred to in this clause.
- (c) The Company's obligation to pay the outstanding amount on the date it becomes due for payment is not affected by any other provision of this deed.
- (d) If a liability under this deed becomes merged in a judgment or order, then the Company agrees to pay interest to the Council on the amount of that liability as an independent obligation. This interest accrues from the date the liability becomes due for payment both before and after the judgment or order until it is paid, at a rate that is the higher of the rate payable under the judgment or order and the rate referred to in this clause.

7.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 7 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) In this clause 7, "**monetary consideration**" means any consideration expressed as an amount of money, "**non-monetary consideration**" means any consideration that is not monetary consideration, and "**non taxable supply**" means a supply that is not a taxable supply.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

7.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

7.3 Additional amount of GST payable

Subject to clause 7.5, if GST becomes payable on any supply made by a party ("**Supplier**") under or in connection with this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause), for that supply is exclusive of GST;
- (b) any party ("**Recipient**") that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply ("**GST Amount**"), and:
 - (1) where that GST Amount is payable by the Council, the GST Amount will be limited to the amount of the input tax credit (if any) to which the Council is a member) is entitled in relation to the Council's acquisition of that supply and is payable within 5 business days after the Council has received the benefit of that input tax credit; and
 - (2) in any other case, the GST Amount is payable at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with this clause.

7.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 7.3 and clause 7.5), varies from the additional amount paid by the Recipient under clause 7.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 7.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 7.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

7.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which subclause 7.3 applies is a taxable supply made by the Recipient (the "**Recipient Supply**"), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with subclause 7.3 shall:
 - (1) if the Supplier is the Council, be reduced by the amount of the input tax credit (if any) to which the Council (or the representative member of any GST group of which the Council, in any capacity, is a member) is entitled in relation to the Council's acquisition of the Recipient Supply; and
 - (2) in any other case, be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 7.3 (or the time at which such GST Amount would have been payable in accordance with subclause 7.3 but for the operation of clause 7.5(a)).

7.6 No merger

This clause will not merge on completion or termination of the deed.

8 Community Enhancement Fund

8.1 Establishment of the Community Enhancement Fund

- (a) The Council must hold and apply all Monetary Contributions paid by the Company under this deed in accordance with this clause 5(d).
- (b) The Council must invest all Monetary Contributions paid by the Company under this deed in an interest bearing account held in the name of the Council for the purpose of the Community Enhancement Fund.

8.2 The Committee

- (a) The Council must establish the Committee on or before the date on which the first Monetary Contribution is paid under this deed.
- (b) The Council must procure that the role of the Committee includes:
 - (1) to determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made;
 - (2) to determine applications for funding for Local Projects from the Community Enhancement Fund; and
 - (3) to appoint the Auditor as required by clause 8.7(a).

8.3 Call for Funding Applications

During:

- (a) February to March in each year in which there are funds in the Community Enhancement Fund; or
- (b) any further period determined by the Committee,

the Council must publicly advertise in the Council Voice newsletter and in the local newspapers the availability of funds in the Community Enhancement Fund and to call for applications to be made to the Committee, in the form required by the Committee, from the public, community groups and individuals for funding for Local Projects (**Funding Applications**).

8.4 Notification to Company

The Council must procure that the Committee:

- (a) notifies the Company of each application made for funding for Local Projects from the Community Enhancement Fund;
- (b) if requested by the Company, consult the Company in relation to applications made for funding for Local Projects from the Community Enhancement Fund; and
- (c) notifies the Company of each Local Project which is to be funded from the Community Enhancement Fund including the amounts of any funding.

8.5 Allocation of Funds

The Council must pay funds from the Community Enhancement Fund to each Local Project approved by the Committee for funding from the Community Enhancement Fund in accordance with the determinations made by the Committee and subject to the concurrence of the full Council of Upper Lachlan Shire Council.

8.6 Public Recognition

- (a) If requested by the Company, the Council must publicly acknowledge:
 - (1) the payment of the Monetary Contribution by the Company; and
 - (2) the Company's role in funding any approved Local Projects via the Community Enhancement Fund.
- (b) The form of public acknowledgment required by clause 8.6(a) is to be agreed by the Council and the Company (acting reasonably) but may include:
 - (1) the inclusion of the Company's logo in any advertisement for Funding Applications or an announcement made in relation to the approved Local Projects and funding determinations; and
 - (2) where appropriate for particular approved Local Projects, a permanent sign recognising that the approved Local Project was funded by the Company via the Community Enhancement Fund.

8.7 Auditing

- (a) During each year in which there are funds in the Community Enhancement Fund, the Committee must appoint an Auditor to reconcile:
 - (1) the Monetary Contributions paid by the Company under clause 5; and
 - (2) any payments made by the Council in accordance with clause 8.5,and identify any corrective payments required.
- (b) The Company and the Council must make any corrective payments identified by the Auditor as being necessary to reconcile the Community Enhancement Fund.
- (c) The costs of the Auditor will be paid out of the Community Enhancement Fund.

9 Registration of Deed

- (a) The Company agrees to procure the registration of this deed in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act and this clause 9.
- (b) The Company, at its expense and risk, as soon as reasonably practicable (but in any event no later than 30 days after the date of this deed) take all practical steps and otherwise do anything that the Council/Minister (as appropriate) reasonably requires:
 - (i) to procure
 - A. the consent of each person who:
 - 1) has an estate or interest in the Land registered under the Real Property Act; or
 - 2) is seized or possessed of an estate or interest in the Land; and
 - B. the execution of any documents; and
 - C. the production of the relevant duplicate certificates of title, to enable the registration of this deed under the Real Property Act 1900 (NSW) by the Registrar-General in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act; and
 - (ii) to procure registration of this deed in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act.

10 Disposal by the Company of its interest in the Development

Prior to the Company disposing of any part of its interest in the Development to any third party, the Company must procure entry by that third party into a deed with the Council and the Minister (as appropriate) on substantially the same terms and conditions as this deed.

11 No fetter

Nothing in this deed shall be construed as requiring Minister or the Council (as appropriate) to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

12 Dispute Resolution

12.1 Notice of Dispute

If a party claims that a dispute has arisen under this deed (**Claimant**), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).

12.2 Response to Notice

Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

12.3 Negotiation

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 business days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

12.4 Further Notice if not Settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Dispute Notice**).

12.5 Mediation

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the appointment of a Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply to appoint a mediator;
- (c) the Mediator appointed pursuant to this clause 12.5 must:
 - (1) have reasonable qualifications and practical experience in the area of the dispute; and
 - (2) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (e) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;

(g) in relation to Costs and expenses:

- (1) each party will bear their own professional and expert costs incurred in connection with the mediation;
- (2) the Costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

12.6 Litigation

If the dispute is not finally resolved in accordance with clause 12.5, either party is at liberty to litigate the dispute.

12.7 Exchange of information

The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute between the parties. No party may use any information or documents obtained through the dispute resolution process established by this clause 12 for any purpose other than an attempt to settle a dispute between the parties.

12.8 Continue to Perform obligations

Each party must continue to perform its obligations under this deed, notwithstanding the existence of a dispute.

13 General

13.1 Costs

The Company agrees to pay the Costs of the Minister and the Council (as appropriate) in connection with:

- (a) the negotiation, preparation and execution of this deed;
- (b) performing its obligations under this deed; and
- (c) the advertising and exhibiting of this planning agreement in accordance with the EP&A Act.

13.2 Notices

- (a) A party notifying or giving notice under this deed must do so in writing addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by notice).
- (b) A notice given in accordance with clause 13.2(a) will be deemed to have been given and received:
 - (1) if delivered, on receipt;
 - (2) if posted, three business days after posting;
 - (3) if sent by facsimile on confirmation of the correct transmission of the facsimile; and
 - (4) any notice received after 5.00 pm or on a day not a business day shall be deemed to have been received at 9.00 am on the next business day.

13.3 Waiver

- (a) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this deed, does not amount to a waiver of any obligation of, or a breach of obligation by, another party;
- (b) A waiver by a party is only effective if it is in writing and signed by the party against whom the waiver is claimed;
- (c) A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

13.4 Governing Law

This deed is governed by New South Wales law and each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed.

13.5 Prior Agreements Superseded

This deed:

- (a) wholly replaces and excludes all prior agreements, correspondence, negotiations, representations, explanations and statements between the parties covering or in connection with the matters covered by this deed; and
- (b) is the entire agreement between the parties in respect of the matters covered by this deed.

13.6 Modification of Deed

No modification or alteration of any provision of this deed will be valid unless it is in writing and signed by all parties to this deed.

13.7 Representations and Warranties

The parties represent and warrant that they have power to enter into this deed and comply with their obligations under the deed and that entry into this deed will not result in the breach of any law.

13.8 Severability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 13.8(a) does not apply where enforcement of the provision of this deed in accordance with clause 13.8(a) would materially affect the nature or effect of the Company's obligations under this deed.

13.9 Confidentiality, Media Releases and Enquiries

- (a) The parties agree that the terms of this deed are not confidential and this deed may be treated as a public document and exhibited or reported without restriction by any party.
- (b) If requested by a party, the other party must not issue, publish or authorise any media release or advertisement concerning this deed, without obtaining the other party's prior written approval (which approval may not be unreasonably withheld).

13.10 Counterparts

This deed may be executed in any number of counterparts that together will constitute one instrument. A party may execute this deed by signing any counterpart.

13.11 No Fiduciary Relationship

Nothing in this deed will be construed or interpreted as constituting the relationship between the parties as that of a partnership, joint venture or any form of fiduciary relationship.

13.12 Further Acts

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to affect, perfect or complete this deed and all transactions incidental to it.

13.13 Entire Agreement

The parties intend this deed to constitute the entire agreement and understanding between them in relation to the subject matters of this deed and agree that any prior agreements or arrangements between them relating to the subject matter of this deed are rescinded and have no further force or effect. No party can rely on an earlier document, anything said or done by another party, or by an officer, agent or employee of that party, before the date of this deed, except as permitted by law.

13.14 Enforcement

- (a) This deed may be enforced by any party in any court of competent jurisdiction.
- (b) The Company covenants that it will not rescind or terminate this deed or make a claim that this deed is void, voidable, illegal or unenforceable because a condition in a project approval requires the Company to enter into a planning agreement.
- (c) The Company indemnifies the Minister and the Council (as appropriate) against any liability, loss, claim, damages, costs and expenses (including legal fees, costs and disbursements on the higher of a full indemnity basis and a solicitor and own client basis, determined without taxation, assessment or similar process) arising from or incurred in connection with the Company's breach of any of its obligations under this deed.
- (d) The indemnity in this clause is a continuing obligation, separate and independent from the Company's other obligations and survives completion, rescission or termination of this deed.
- (f) It is not necessary for the Minister or the Council (as appropriate) to incur expense or to make any payment before enforcing the indemnity in this clause.
- (g) The Company must pay on demand any amount it must pay under the indemnity in paragraph this clause.

13.15 Release and Indemnity

- (a) The Company agrees that the obligation to pay the Monetary Contribution is at the risk of the Company. The Company releases the Minister from any claim, liability or loss arising from, and Costs incurred in connection with, the Company's obligation to pay the Monetary Contribution.
- (b) The Company indemnifies the Minister and the Council against all liabilities or loss arising from, and any Costs incurred in connection with the Minister enforcing the Company's obligation to pay the Monetary Contribution in accordance with this deed and/or the Minister exercising the Minister's rights under or by virtue of this deed.
- (c) The indemnity in this clause is a continuing obligation independent of the Company's other obligations under this deed and continues after this deed ends.

Schedule 1: Notice Details

The Upper Lachlan Shire Council

Address	44 Spring Street, Crookwell NSW 2583
Attention	[insert]
Fax	[insert]
Email	[insert]

The Minister for Planning

Address	23-33 Bridge Street, Sydney NSW 2000
Attention	[insert]
Fax	[insert]
Email	[insert]

Company

Address
Attention
Fax
Email

Signing page

Executed as a deed

Signed sealed and delivered for
The Upper Lachlan Shire Council

sign here ► _____

print name _____

in the presence of

sign here ► _____

Witness

print name _____

Signed sealed and delivered for
The Company
by its Attorney

sign here ► _____

Attorney

print name _____

in the presence of

sign here ► _____

Witness

print name _____

Signing page

Signed sealed and delivered for
the Minister for Planning
by his Attorney

sign here ► _____
Attorney

print name _____

in the presence of

sign here ► _____
Witness

print name _____

Appendix B – Power Station Planning Agreement

Planning Agreement

The Minister for Planning (if Part 3A)

The Upper Lachlan Shire Council

(Company)

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Signing page **15**

Planning Agreement

Date

Between the parties

The Minister for Planning

ABN 38 755 709 681 of 23-33 Bridge Street, Sydney NSW 2000

(Minister)

The Upper Lachlan Shire Council

ABN 81 011 241 552 of 44 Spring Street, Crookwell NSW 2580

(Council)

(Company)

Recitals

1

2

This deed witnesses as follows:

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
<i>Auditor</i>	an appropriately qualified accountant appointed by the Committee.
<i>Committee</i>	the Committee established to administer the Community Enhancement Fund in accordance with the DCP comprising the Mayor or Councillor Delegate, General Manager of the Council, Two (2) Non-host Community Representatives and Authorised Representative of Funding Organisation or host community representative.
<i>Contribution Year</i>	means every 12 month period from 1 July in each year.
<i>Construction Certificate</i>	has the meaning contained in the EP&A Act.
<i>Development</i>	(Insert description).
<i>Community Enhancement Fund</i>	the fund to be established and administered by the Council to implement the Community Enhancement Program in accordance with the DCP.
<i>Costs</i>	includes costs, charges and expenses, including those incurred in connection with advisers.
<i>DCP</i>	the <i>Upper Lachlan Development Control Plan 2010</i> as amended from time to time.
<i>EP&A Act</i>	the <i>Environmental Planning and Assessment Act 1979 (NSW)</i> as amended from time to time.
<i>Power Station</i>	also referred to as a generating station, power plant, or powerhouse, is an industrial facility where electrical energy is generated. It may be powered by fossil fuel (coal), natural gas, bio-mass, solar, wind or other sources.
<i>Land</i>	(Insert description)
<i>Local Projects</i>	any projects proposed to be carried out within the Upper Lachlan Shire Council local government area which are aimed at: <ol style="list-style-type: none">1. enhancing any aspect of the local environment including, but not limited to, ameliorating any impacts from the Power Station, or2. providing any community service or facility.
<i>Monetary Contribution</i>	A one-off contribution of 1.5 percent of the total capital cost of each Power Station development in accordance with clause 5 of this deed.
<i>Part 3A Approval</i>	project approval under section 75J of the EP&A Act. (if applicable)
<i>Mediator</i>	a person appointed as mediator under clause 12.5 of this deed.

1.2 Interpretation

- (a) Clause headings are for convenience only and will be ignored in the interpretation of this deed.
- (b) References to a party include the successors and permitted assigns of that party.
- (c) Words importing the singular include the plural and words importing the plural include the singular.
- (d) Words importing a person include a corporation, firm or body corporate.
- (e) Nothing contained in this deed will be deemed or construed as creating the relationship of partnership.
- (f) References to a month mean a calendar month and a reference to a year means a calendar year.
- (g) References to any document include any permitted amendment, supplement to or replacement or novation of the document.
- (h) References to any legislation or to any section or provision of any legislation includes any:
 - (1) statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision; or
 - (2) ordinances, by-laws, regulations and other statutory provision substituted for that legislation, section or provision.
- (i) Other grammatical forms of defined words or expressions have corresponding meanings.
- (j) 'Including' and similar expressions are not words of limitation.

2 Planning Agreement

The parties agree that this deed is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the EP&A Act.

3 Application of this deed

This deed applies to application for development consent/Part 3A approval (as appropriate) made in relation to the Development which is proposed to be constructed on the Land.

4 Operation of this deed

The parties agree that this deed will not operate or bind the parties unless and until the last of the following to occur:

- (a) Development consent/Part 3A approval is granted to the Development; and
- (b) the Company obtains a Construction Certificate for any part of the Development.

5 Payment of the Monetary Contribution

The Company must pay to the Council a one-off monetary contribution of 1.5 percent of the total capital cost of each Power Station development.

6 Overdue payments

This clause is not applicable.

7 GST

7.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 7 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) In this clause 7, "**monetary consideration**" means any consideration expressed as an amount of money, "**non-monetary consideration**" means any consideration that is not monetary consideration, and "**non taxable supply**" means a supply that is not a taxable supply.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

7.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

7.3 Additional amount of GST payable

Subject to clause 7.5, if GST becomes payable on any supply made by a party ("**Supplier**") under or in connection with this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause), for that supply is exclusive of GST;
- (b) any party ("**Recipient**") that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply ("**GST Amount**"), and:
 - (1) where that GST Amount is payable by the Council, the GST Amount will be limited to the amount of the input tax credit (if any) to which the Council is a member) is entitled in relation to the Council's acquisition of that supply and is payable within 5 business days after the Council has received the benefit of that input tax credit; and
 - (2) in any other case, the GST Amount is payable at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with this clause.

7.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 7.3 and clause 7.5), varies from the additional amount paid by the Recipient under clause 7.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 7.4(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 7.3.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

7.5 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which subclause 7.3 applies is a taxable supply made by the Recipient (the "**Recipient Supply**"), the GST Amount that would be otherwise be payable by the Recipient to the Supplier in accordance with subclause 7.3 shall:
 - (1) if the Supplier is the Council, be reduced by the amount of the input tax credit (if any) to which the Council (or the representative member of any GST group of which the Council, in any capacity, is a member) is entitled in relation to the Council's acquisition of the Recipient Supply; and
 - (2) in any other case, be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 7.3 (or the time at which such GST Amount would have been payable in accordance with subclause 7.3 but for the operation of clause 7.5(a)).

7.6 No merger

This clause will not merge on completion or termination of the deed.

8 Community Enhancement Fund

8.1 Establishment of the Community Enhancement Fund

- (a) The Council must hold and apply all Monetary Contributions paid by the Company under this deed in accordance with this clause 6.
- (b) The Council must invest all Monetary Contributions paid by the Company under this deed in an interest bearing account held in the name of the Council for the purpose of the Community Enhancement Fund.

8.2 The Committee

- (a) The Council must establish the Committee on or before the date on which the first Monetary Contribution is paid under this deed.
- (b) The Council must procure that the role of the Committee includes:
 - (1) to determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made;
 - (2) to determine applications for funding for Local Projects from the Community Enhancement Fund; and
 - (3) to appoint the Auditor as required by clause 8.7(a).

8.3 Call for Funding Applications

During:

- (a) February to March in each year in which there are funds in the Community Enhancement Fund; or
- (b) any further period determined by the Committee,

the Council must publicly advertise in the Council Voice newsletter and in the local newspapers the availability of funds in the Community Enhancement Fund and to call for applications to be made to the Committee, in the form required by the Committee, from the public, community groups and individuals for funding for Local Projects (**Funding Applications**).

8.4 Notification to Company

The Council must procure that the Committee:

- (a) notifies the Company of each application made for funding for Local Projects from the Community Enhancement Fund;
- (b) if requested by the Company, consult the Company in relation to applications made for funding for Local Projects from the Community Enhancement Fund; and
- (c) notifies the Company of each Local Project which is to be funded from the Community Enhancement Fund including the amounts of any funding.

8.5 Allocation of Funds

The Council must pay funds from the Community Enhancement Fund to each Local Project approved by the Committee for funding from the Community Enhancement Fund in accordance with the determinations made by the Committee and subject to the concurrence of the full Council of Upper Lachlan Shire Council.

8.6 Public Recognition

- (a) If requested by the Company, the Council must publicly acknowledge:
 - (1) the payment of the Monetary Contribution by the Company; and
 - (2) the Company's role in funding any approved Local Projects via the Community Enhancement Fund.
- (b) The form of public acknowledgment required by clause 8.6(a) is to be agreed by the Council and the Company (acting reasonably) but may include:
 - (1) the inclusion of the Company's logo in any advertisement for Funding Applications or an announcement made in relation to the approved Local Projects and funding determinations; and
 - (2) where appropriate for particular approved Local Projects, a permanent sign recognising that the approved Local Project was funded by the Company via the Community Enhancement Fund.

8.7 Auditing

- (a) During each year in which there are funds in the Community Enhancement Fund, the Committee must appoint an Auditor to reconcile:
 - (1) the Monetary Contributions paid by the Company under clause 5; and
 - (2) any payments made by the Council in accordance with clause 8.5,and identify any corrective payments required.
- (b) The Company and the Council must make any corrective payments identified by the Auditor as being necessary to reconcile the Community Enhancement Fund.
- (c) The costs of the Auditor will be paid out of the Community Enhancement Fund.

9 Registration of Deed

- (a) The Company agrees to procure the registration of this deed in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act and this clause 9.
- (b) The Company, at its expense and risk, as soon as reasonably practicable (but in any event no later than 30 days after the date of this deed) take all practical steps and otherwise do anything that the Council/Minister (as appropriate) reasonably requires:
 - (i) to procure
 - A. the consent of each person who:
 - 1) has an estate or interest in the Land registered under the *Real Property Act*; or
 - 2) is seized or possessed of an estate or interest in the Land; and
 - B. the execution of any documents; and
 - C. the production of the relevant duplicate certificates of title, to enable the registration of this deed under the *Real Property Act 1900 (NSW)* by the Registrar-General in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act; and
 - (ii) to procure registration of this deed in the relevant folio of the register for the Land in accordance with section 93H of the EP&A Act.

10 Disposal by the Company of its interest in the Development

Prior to the Company disposing of any part of its interest in the Development to any third party, the Company must procure entry by that third party into a deed with the Council and the Minister (as appropriate) on substantially the same terms and conditions as this deed.

11 No fetter

Nothing in this deed shall be construed as requiring Minister or the Council (as appropriate) to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

12 Dispute Resolution

12.1 Notice of Dispute

If a party claims that a dispute has arisen under this deed (**Claimant**), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).

12.2 Response to Notice

Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

12.3 Negotiation

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 business days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

12.4 Further Notice if not Settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Dispute Notice**).

12.5 Mediation

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the appointment of a Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply to appoint a mediator;
- (c) the Mediator appointed pursuant to this clause 12.5 must:
 - (1) have reasonable qualifications and practical experience in the area of the dispute; and
 - (2) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (e) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;

- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (g) in relation to Costs and expenses:
 - (1) each party will bear their own professional and expert costs incurred in connection with the mediation;
 - (2) the Costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

12.6 Litigation

If the dispute is not finally resolved in accordance with clause 12.5, either party is at liberty to litigate the dispute.

12.7 Exchange of information

The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute between the parties. No party may use any information or documents obtained through the dispute resolution process established by this clause 12 for any purpose other than an attempt to settle a dispute between the parties.

12.8 Continue to Perform obligations

Each party must continue to perform its obligations under this deed, notwithstanding the existence of a dispute.

13 General

13.1 Costs

The Company agrees to pay the Costs of the Minister and the Council (as appropriate) in connection with:

- (a) the negotiation, preparation and execution of this deed;
- (b) performing its obligations under this deed; and
- (c) the advertising and exhibiting of this planning agreement in accordance with the EP&A Act.

13.2 Notices

- (a) A party notifying or giving notice under this deed must do so in writing addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by notice).
- (b) A notice given in accordance with clause 13.2(a) will be deemed to have been given and received:
 - (1) if delivered, on receipt;
 - (2) if posted, three business days after posting;
 - (3) if sent by facsimile on confirmation of the correct transmission of the facsimile; and
 - (4) any notice received after 5.00 pm or on a day not a business day shall be deemed to have been received at 9.00 am on the next business day.

13.3 Waiver

- (a) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this deed, does not amount to a waiver of any obligation of, or a breach of obligation by, another party;
- (b) A waiver by a party is only effective if it is in writing and signed by the party against whom the waiver is claimed;
- (c) A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

13.4 Governing Law

This deed is governed by New South Wales law and each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed.

13.5 Prior Agreements Superseded

This deed:

- (a) wholly replaces and excludes all prior agreements, correspondence, negotiations, representations, explanations and statements between the parties covering or in connection with the matters covered by this deed; and
- (b) is the entire agreement between the parties in respect of the matters covered by this deed.

13.6 Modification of Deed

No modification or alteration of any provision of this deed will be valid unless it is in writing and signed by all parties to this deed.

13.7 Representations and Warranties

The parties represent and warrant that they have power to enter into this deed and comply with their obligations under the deed and that entry into this deed will not result in the breach of any law.

13.8 Severability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 13.8(a) does not apply where enforcement of the provision of this deed in accordance with clause 13.8(a) would materially affect the nature or effect of the Company's obligations under this deed.

13.9 Confidentiality, Media Releases and Enquiries

- (a) The parties agree that the terms of this deed are not confidential and this deed may be treated as a public document and exhibited or reported without restriction by any party.
- (b) If requested by a party, the other party must not issue, publish or authorise any media release or advertisement concerning this deed, without obtaining the other party's prior written approval (which approval may not be unreasonably withheld).

13.10 Counterparts

This deed may be executed in any number of counterparts that together will constitute one instrument. A party may execute this deed by signing any counterpart.

13.11 No Fiduciary Relationship

Nothing in this deed will be construed or interpreted as constituting the relationship between the parties as that of a partnership, joint venture or any form of fiduciary relationship.

13.12 Further Acts

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to affect, perfect or complete this deed and all transactions incidental to it.

13.13 Entire Agreement

The parties intend this deed to constitute the entire agreement and understanding between them in relation to the subject matters of this deed and agree that any prior agreements or arrangements between them relating to the subject matter of this deed are rescinded and have no further force or effect. No party can rely on an earlier document, anything said or done by another party, or by an officer, agent or employee of that party, before the date of this deed, except as permitted by law.

13.14 Enforcement

- (a) This deed may be enforced by any party in any court of competent jurisdiction.
- (b) The Company covenants that it will not rescind or terminate this deed or make a claim that this deed is void, voidable, illegal or unenforceable because a condition in a project approval requires the Company to enter into a planning agreement.
- (c) The Company indemnifies the Minister and the Council (as appropriate) against any liability, loss, claim, damages, costs and expenses (including legal fees, costs and disbursements on the higher of a full indemnity basis and a solicitor and own client basis, determined without taxation, assessment or similar process) arising from or incurred in connection with the Company's breach of any of its obligations under this deed.
- (d) The indemnity in this clause is a continuing obligation, separate and independent from the Company's other obligations and survives completion, rescission or termination of this deed.
- (f) It is not necessary for the Minister or the Council (as appropriate) to incur expense or to make any payment before enforcing the indemnity in this clause.
- (g) The Company must pay on demand any amount it must pay under the indemnity in paragraph this clause.

13.15 Release and Indemnity

- (a) The Company agrees that the obligation to pay the Monetary Contribution is at the risk of the Company. The Company releases the Minister from any claim, liability or loss arising from, and Costs incurred in connection with, the Company's obligation to pay the Monetary Contribution.
- (b) The Company indemnifies the Minister and the Council against all liabilities or loss arising from, and any Costs incurred in connection with the Minister enforcing the Company's obligation to pay the Monetary Contribution in accordance with this deed and/or the Minister exercising the Minister's rights under or by virtue of this deed.
- (c) The indemnity in this clause is a continuing obligation independent of the Company's other obligations under this deed and continues after this deed ends.

Schedule 1: Notice Details

The Upper Lachlan Shire Council

Address	44 Spring Street, Crookwell NSW 2583
Attention	[insert]
Fax	[insert]
Email	[insert]

The Minister for Planning

Address	23-33 Bridge Street, Sydney NSW 2000
Attention	[insert]
Fax	[insert]
Email	[insert]

Company

Address
Attention
Fax
Email

Signing page

Executed as a deed

Signed sealed and delivered for
The Upper Lachlan Shire Council

sign here ► _____

print name _____

in the presence of

sign here ► _____

Witness

print name _____

Signed sealed and delivered for
The Company
by its Attorney

sign here ► _____

Attorney

print name _____

in the presence of

sign here ► _____

Witness

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Signing page

Signed sealed and delivered for
the Minister for Planning
by his Attorney

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