
COBAKI ESTATE

DEVELOPMENT CODE

PART A - EXEMPT AND COMPLYING DEVELOPMENT

PART B - DEVELOPMENT CONTROLS

August 2017 (Revision 3)



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Part A of this Development Code contains the controls for Exempt and Complying Development for Cobaki Estate.

Approved:



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- B** Summary of Cobaki Estate Concept Approval.
- C** Tweed Shire Council's rainwater harvesting requirements.

1.0 INTRODUCTION

This section of the Development Code provides an overview of the purpose and the structure of the Cobaki Estate Development Code and provides information on how to apply the Code to various development types within Cobaki Estate.

This section is intentionally blank.

1.1 Name and Application of this Plan

This *Code* is known as the Cobaki Estate Development Code. The *Code* forms part of the Cobaki Estate *concept plan* approval and is to accompany and provide design detail for development to be undertaken in accordance with the *concept plan*.

This *Code* applies to development within Cobaki Estate. The boundary of the Cobaki Estate site is shown at **Figure 1.1.1**.



Figure 1.1.1: Land to which this Development Code Applies

1.2 The Cobaki Estate Concept Plan

The Director General of the Department of Planning, as the delegate of the Minister for Planning, formed the opinion that the Cobaki Estate *concept plan* was development to which Part 3A of the Environmental Planning and Assessment Act 1979 applied. A *concept plan* has been approved for the project (see Appendix B for a summary of the concept approval).

The *concept plan* approved the following aspects of the proposed development:

- ♦ Vision and design principles for Cobaki Estate ;
- ♦ General layout and siting of development into precincts;
- ♦ Land uses in each precinct;
- ♦ A mix of lot sizes and products;
- ♦ Open space and landscape management concepts;
- ♦ Access network of roads, public transport routes, pedestrian/cycle paths;
- ♦ Water management concept;
- ♦ Utility services strategy; and
- ♦ Statement of commitments.

Design guidelines and planning controls that give effect to development in accordance with the Cobaki Estate *concept plan* are contained in this *Code*.

The *concept plan* at **Figure 1.2.1** illustrates the broad level development outcomes for Cobaki Estate. It outlines the approved development footprint, land uses, open space and environmental protection areas, major transport linkages and general location of community facilities and *schools*.

The Concept Plan and this governing Development Code are not static documents and must be adaptable and robust are subject to change to respond to new planning controls, planning theory, market and end user requirements. Through this process the Code builds upon the previous changes.

Objectives

- (1) To ensure development of Cobaki Estate is undertaken in a co-ordinated manner consistent with the *concept plan*.

Controls

- (1) All development is to be undertaken generally in accordance with the Cobaki Estate *concept plan* at **Figure 1.2.1** (or as amended) subject to compliance with the objectives and development controls set out in this *Code*.
- (2) Land uses are to be as specified on the Precinct Development Matrix at **Figure 1.2.2**. Note the areas of each Domain may vary subject to Modification of the Cobaki Estate concept plan. Land uses accord with the Standard Instrument.

Concept Plan

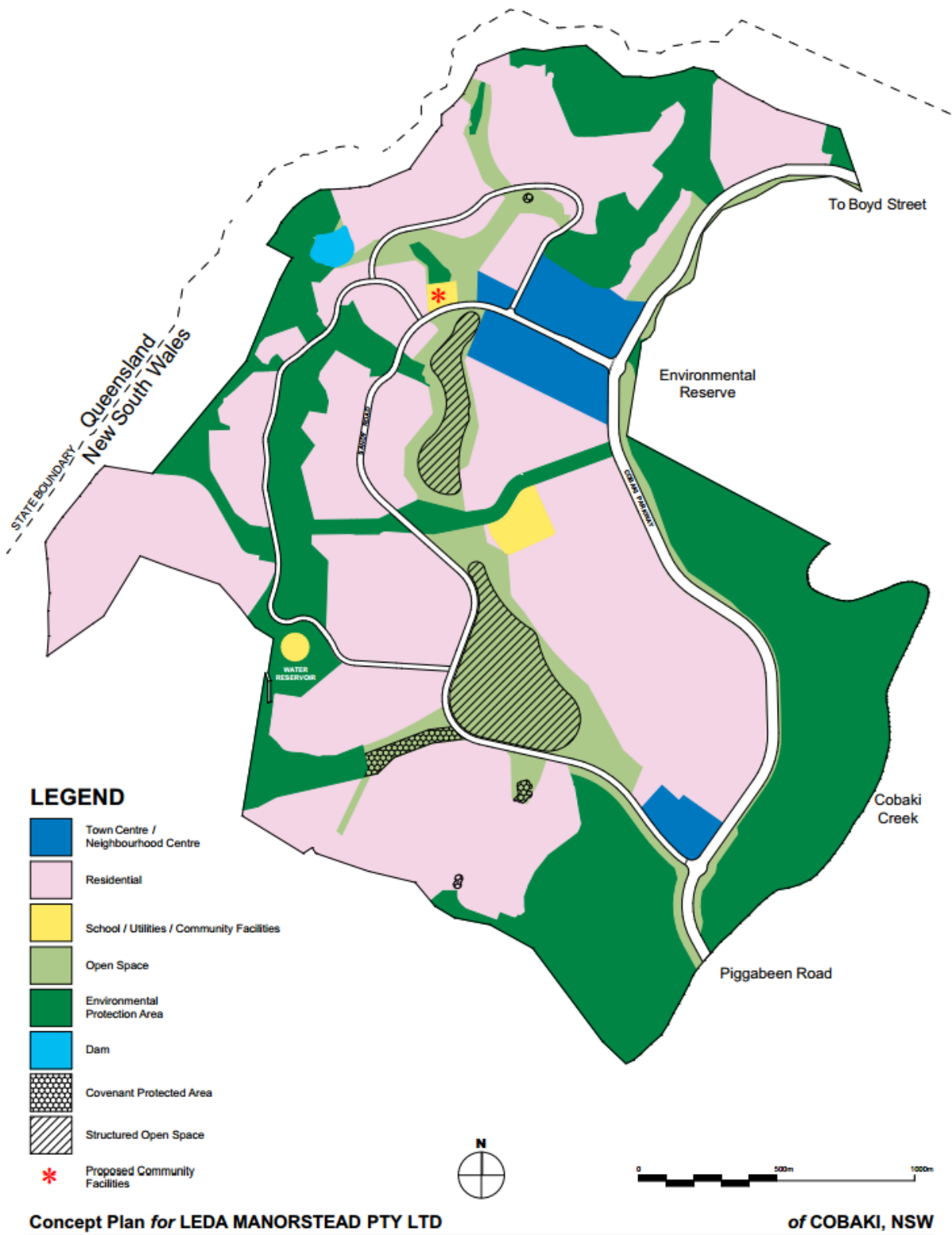


Figure 1.2.1: Cobaki Estate Concept Plan

	Concept Plan Domain	Development Uses		Total Area		Urban Design Principles
				Leda Land	Owned Land Proposed Road Closures	
	Town Centre/ Neighbourhood Centre	<ul style="list-style-type: none"> • Business premises • Carpark • Child care centre • Community facility • Education establishment • Emergency services facility • Entertainment facility • Environmental facility • Food and drink premises • Funeral chapel • Health services facility • Home business • Hotel or motel accommodation • Information and education facility • Medical centre 	<ul style="list-style-type: none"> • Office premises • Place of worship • Pub • Recreation area • Recreation facility (indoor) • Residential care facility • Residential types in Development Code • Registered Club • Restaurant • Retail premises • Roads • Seniors housing • Service station • Shop • Telecommunication facility 	24.75 ha	1.21 ha	<ul style="list-style-type: none"> • Urban form controlled by Plan of Development in Precinct approval • Building height controlled by Development Code • Mixed uses are encouraged • Provide legible off-street parking • Create town square focus • Sporting facilities may be shared between schools and community • Buildings facing main streets are encouraged to have active frontages • Pedestrian friendly streetscape with awnings • Create interesting buildings with articulated facades • Screen or conceal passive facades and service areas • Soften visual impact of carpark with landscaping • Incorporate urban art and public street scaping • Must demonstrate sensitive interface with surrounding development • Ground floor facing main roads must be non-residential use • Landscape concept to maintain visibility of retail uses • Incorporate passive surveillance and public safety principles
	Residential	<ul style="list-style-type: none"> • Carpark • Child care centre • Community facility • Environmental facility • Exhibition village • Home based child care • Home business • Neighbourhood shop • Recreation area 	<ul style="list-style-type: none"> • Recreation facility (indoor) • Recreation facility (outdoor) • Recreation car facility • Residential types in Development Code • Roads • Seniors housing 	287.82 ha	3.67 ha	<ul style="list-style-type: none"> • Urban form controlled by Plan of Development in Precinct approval and the Development Code • Create diversity of housing choice • Designs must optimise residential amenity, privacy and solar access • Strong streetscape character with articulated setbacks • Incorporate on-site private recreation areas • Garage doors must not dominate streetscape • Incorporate passive surveillance and public safety principles • Incorporate public open space within walkable radius of each dwelling

	Community Facilities/Education/Utilities	<ul style="list-style-type: none"> • Carpark • Child care centre • Community facility • Education establishment • Environmental facility • Information and education facility • Kiosk • Place of worship 	<ul style="list-style-type: none"> • Recreation area • Recreation facility (indoor) • Recreation facility (outdoor) • Roads • Telecommunication facility • Water storage facility 	4.91 ha	0.00 ha	<ul style="list-style-type: none"> • Locate school buildings with integrated parking and shared facilities • Provide adequate safe setdown areas • Sporting facilities may be shared between schools and community • Must demonstrate sensitive interface with surrounding development • Enhance community education on surrounding environment
	Public Open Space	<ul style="list-style-type: none"> • Carpark • Community facility • Environmental facility • Food and drink premises • Kiosk • Recreation area 	<ul style="list-style-type: none"> • Recreation facility (indoor) • Recreation facility (outdoor) • Roads • Sewage reticulation system 	88.64 ha	1.55 ha	<ul style="list-style-type: none"> • Include range of active and passive uses • Incorporate community facilities appropriate to residents' needs such as ovals, amenities and carparking • Sporting facilities may be shared between schools and community • Incorporate stormwater path and treatment
	Environmental Protection Area	<ul style="list-style-type: none"> • Environmental facilities • Roads • Water storage facility 		187.14 ha	5.77 ha	<ul style="list-style-type: none"> • Incorporate low-impact community trails for public and service access • Provide linkages in accordance with the Pedestrian and Cycle Network Plan
Total Area				593.26 ha	12.20 ha	

Figure 1.2.2: Precinct development matrix

Note: Areas subject to detailed design and survey

1.3 Code Vision and Development Objectives

Vision

To establish a high quality urban environment on the principles of community pride, well-being and healthy living.

Encompass a self-contained community incorporating live, work and play options. Housing densities will be higher than those traditionally delivered in the Tweed Shire with a broad range of residential accommodation types *provided* across the site. The delivery of the estate will have a particular focus on creating attractive residential streetscapes structured around well connected, walkable neighbourhoods. Residential, Tourist and visitor accommodation will also be accommodated in vibrant and dynamic town centres.

The Cobaki Estate Town Centre and the Neighbourhood Centre will be focal points for community interaction, civic and community facilities and various commercial premises. Local work options will be provided through the local centres and home based activities.

The Cobaki Estate Town Centre will also be a recognisable within the estate through the development of iconic and mixed used buildings. Buildings will also display architectural elements conducive to the sub-tropical lifestyle envisaged to be fostered by this mixed use domain.

Development Objectives

- (1) To facilitate urban development that meets environmental sustainability objectives.
- (2) To ensure all development achieves a high standard of urban and architectural design quality.
- (3) To promote housing choice with a high standard of residential amenity.
- (4) To achieve housing density targets through a range of housing types with greater diversity and affordability – density by design.
- (5) To achieve connectivity through walkable neighbourhoods and access to public transport, parks and amenities.
- (6) To create a sense of place and identity, and encourage diversity and liveability.
- (7) To create vibrant town and neighbourhood centres.
- (8) To maximise opportunities for future residents to create neighbourhood communities and develop the social capital of the overall development.
- (9) To protect and enhance significant trees and vegetation as identified in ecological assessments.
- (10) To ensure the timely delivery of critical infrastructure.

1.4 Purpose of the Code

The purpose of the *Code* is to:

- (1) Streamline the approvals process and promote housing affordability.
- (2) Provide that development of a specified *class* or description that is of minimal environmental impact is *exempt development*.
- (3) Provide that development, or a *class* of development that can be addressed by specified predetermined development standards is *complying development*.
- (4) Detail the planning, design objectives and controls against which future development of the site will be assessed.

- (5) Consolidate and simplify key planning controls to ensure the orderly, efficient and environmentally sensitive development of Cobaki Estate as envisaged by the Cobaki Estate *concept plan*.
- (6) Promote high quality urban design outcomes.
- (7) Produce a Plan of Development for each stage of development

1.5 Structure of the Code

The *Code* comprises two parts – Parts A and B - and is structured as follows:

Introduction	Section 1:	Code's administrative provisions.
Part A	Section 2:	Exempt and Complying Development.
Part B	Section 3:	Residential development that is not Exempt or Complying Development.
Development that is not Exempt or Complying Development	Section 4:	Cobaki Estate Town Centre and Neighbourhood Centre.
	Section 5:	Subdivision controls. This includes requirements for Precinct Plans (a framework for subdivision design), <i>plan of development</i> (subdivision detail) and <i>design guidelines</i> (guiding merit-based assessment of DAs).
Glossary	Appendix A:	Glossary - definitions of specific terms used in the <i>Code</i> .

Note 1: Terms which are defined in the Glossary are italicised in the text.

1.6 How to use this Code

(See the two flowcharts on the following pages)

Step 1: Check the definition of your proposal under the *Code* - see **Appendix A**.

Is it permissible? Check *Tweed Local Environmental Plan 2000 (LEP)*.

Is it consistent with the Precinct Development Matrix? Check **Figure 1.2.2**.

Step 2: Is your proposal *exempt development*? *Exempt development* is development of a specified class or description that is of minimal environmental impact that can be carried out without the need for development consent under the *Environmental Planning and Assessment Act 1979*. Check **Part A** Section 2.1 of the *Code*. If it is *exempt development* you can proceed with your proposal.

Step 3: If your proposal is not *exempt development*, is it *complying development*? *Complying development* is development, or a class of development, that can be addressed by specified predetermined development standards. Check **Part A** Section 2.2 of the *Code*.

If your proposal is *complying development*, you require a *complying development certificate* (CDC) to be issued by either the *Council* or an *accredited certifier*, and a *Design Review Panel (DRP) pre-approval certificate* (issued before the CDC). You need to comply with Section 2.2 of the *Code*, the *plan of development* and *design guidelines* to receive a CDC.

Step 4: Is your proposal permissible and consistent with the Precinct Development Matrix but is neither *exempt development* nor *complying development*?

You must lodge a *development application* with the consent authority (in most instances, Tweed Shire Council). For a *development application* (even for a subdivision), you need a *pre-approval certificate* by the *DRP*. If in doubt, discuss your proposal with *Council* staff).²

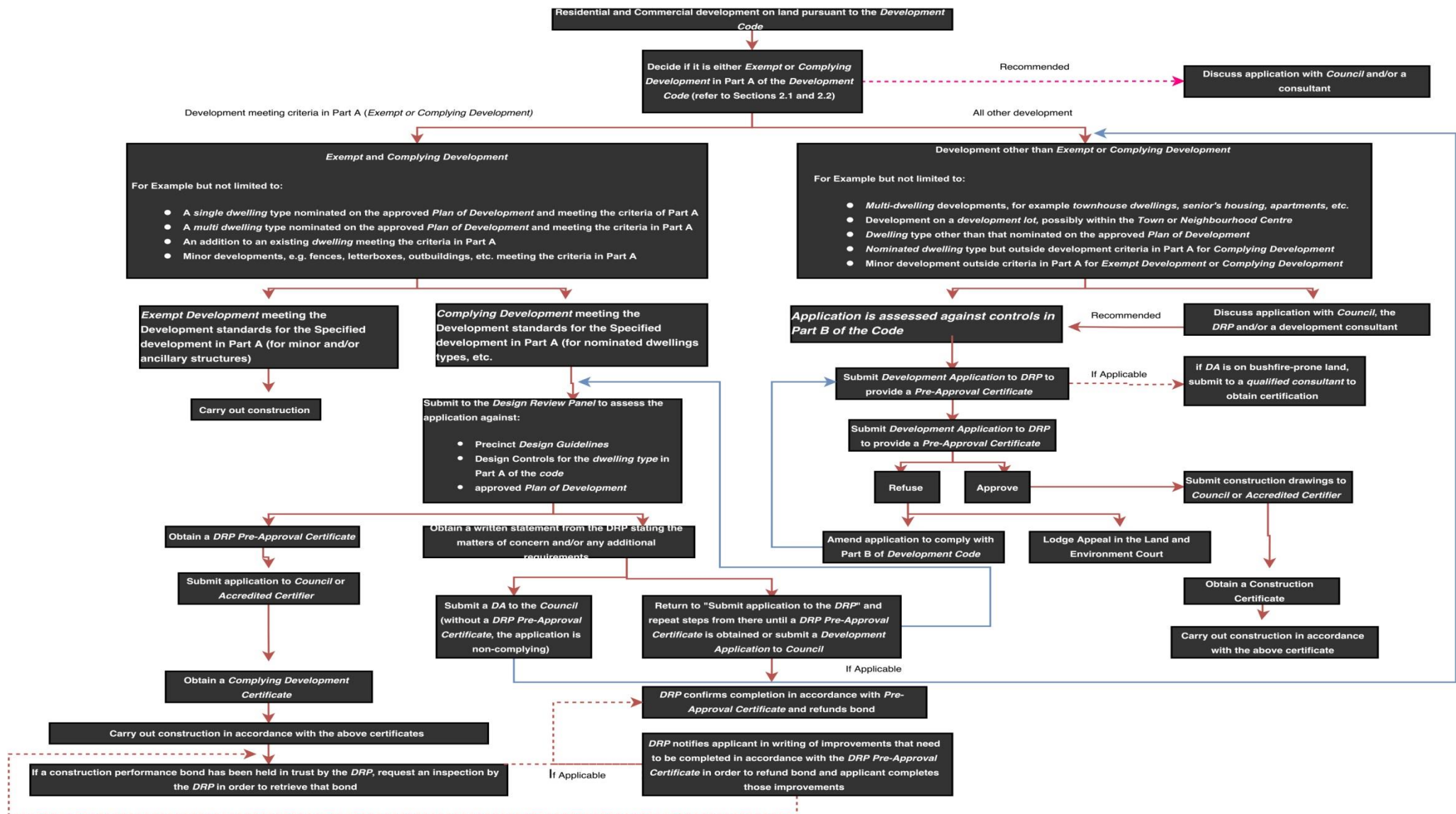
¹ Complying Development includes traditional detached, shop top housing, terrace, zero-lot, dual occupancy and multi dwelling housing.

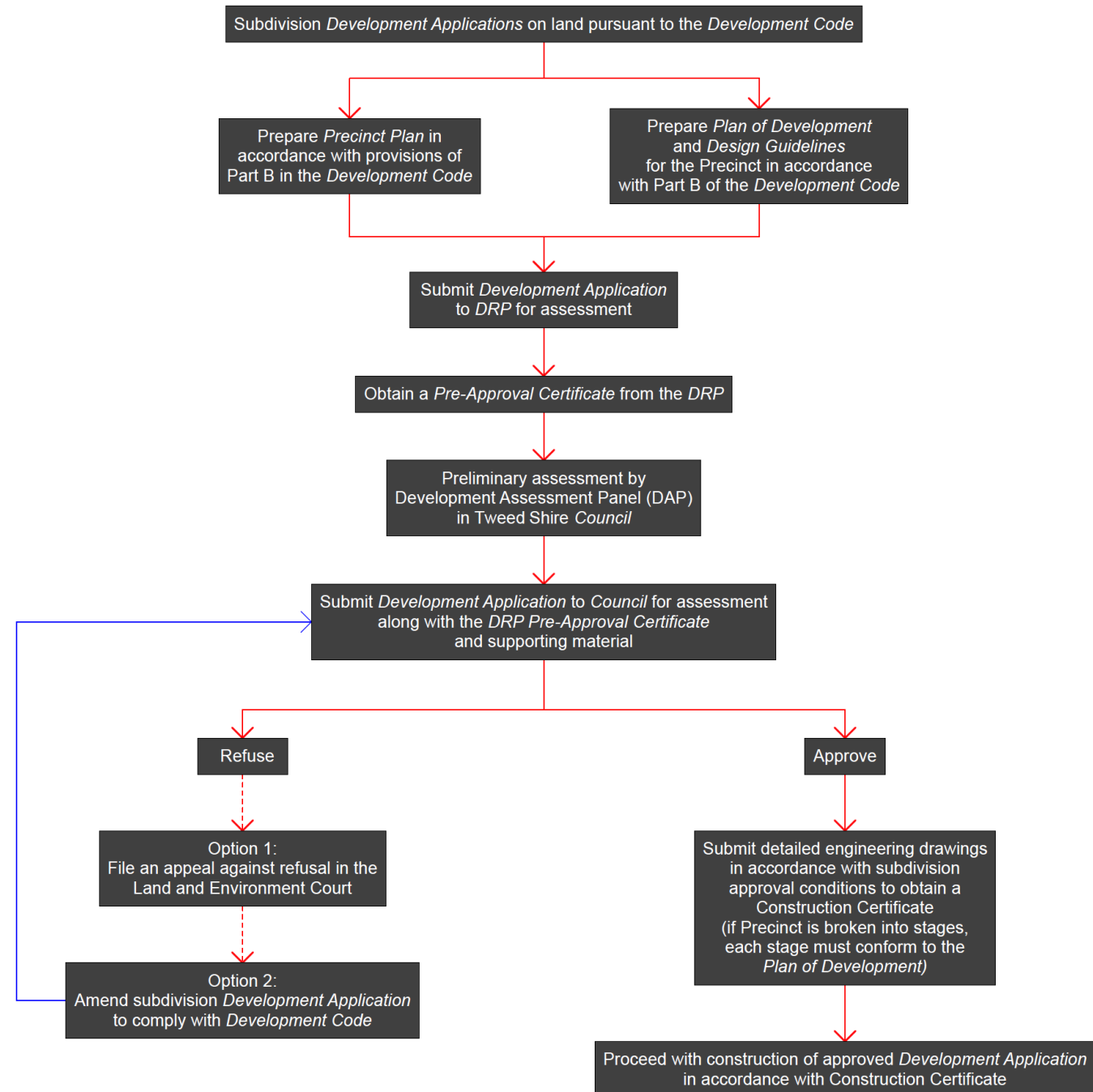
² Development which requires a DA under the Code is Complying Development that does not meet relevant standards, as well as villa/town house, retirement, shop top, commercial, retail and subdivision developments.

If you are lodging the first subdivision DA for the Cobaki Estate site, you must prepare and submit with the DA a Precinct Plan, Plan of Development and *design guidelines*.

All DAs must comply with the (relevant) Precinct Plan, *plan of development* and *design guidelines* - see **Part B** of the *Code*. Check that your proposal complies with those provisions before you lodge your DA with *Council* or an *accredited certifier*.

Step 5: Identify specific development layout controls applicable to your allotment as illustrated on the Plan of Development.





1.7 Statutory Context of the Code

Part A of the *Code* is a site-specific exempt and complying *Code* implemented through an Order under the *Environmental Planning and Assessment Act 1979*. Part B of the *Code* forms part of the approved *concept plan* for Cobaki Estate and contains site specific development controls for land within Cobaki Estate.

The *Code* must be read in conjunction with relevant environmental planning instruments (EPIs) and the following parts of Tweed Shire Development Control Plan 2008, effective 30 April 2008 ('Tweed DCP'):

- ♦ Section A2 – *Site Access and Parking Code*;
- ♦ Section A3 – *Development of Flood Liable Land*;
- ♦ Section A4 – *Advertising Sign Code*;
- ♦ Section A5 – *Subdivision Manual*; and
- ♦ Section A11 – *Public Notification of Development Proposals*.

The *Code* adopts the following provisions of Tweed DCP Section A5:

- Part A5.4 - Urban Subdivision *design guidelines* & Development Standards;
- Part A5.6 - The Assessment & Decision Making Process;
- Part A5.7 - Implementing a Subdivision Consent;
- Appendix A - Subdivision Works - Development Design Specifications;
- Appendix B - Subdivision Works - Development Construction Specifications;
- Appendix C - Subdivision Works, Compliance Certification except as otherwise approved by Council;
- Attachment C1 - Subdivision Works, Compliance Certificate;
- Appendix D - Subdivision Infrastructure Inspections; and
- Appendix E - Recommended Buffers.

References to "*development applications*" in Part A5 of Tweed DCP are also references to Part 3A "Project Applications" except where such references are inconsistent with Part 3A of the *Environmental Planning and Assessment Act 1979*.

The *Code* must also be read in conjunction with Tweed Shire Council Development Design and Construction Specifications. In the event of any inconsistency between the *Code* and any *Council* DCP or policy, the *Code* prevails to the extent of the inconsistency.

1.8 Variations to Part B Code controls and the Cobaki Estate Concept Plan

No variation to the *Code's* Exempt or Complying Development standards is permitted. Where a proposal does not comply with those standards, a *development application* (DA) is required.

DAs will be assessed on merit. Where a variation to a Part B control is sought it must be justified in writing and indicate how the proposal meets the objectives of the relevant control and/or is generally consistent with the *concept plan*.

The NSW Department of Planning can advise applicants about inconsistencies with the *Code* and the *concept plan*, and procedures to follow.

1.9 Developer Design Guidelines

The *Code's design guidelines* provide design objectives for each precinct. They will ensure high quality design and development by providing additional detail to the Part B controls. They will be implemented and administered by the owner of the land that forms the subject of the first *Development Application (DA)* for land pursuant to the *Code* at the subdivision stage by a Section 88B instrument (under the *Conveyancing Act 1919*).

The *design guidelines* must be consistent with the *Code*. The *design guidelines* will be used by the *design review panel* (see s1.10 below) in assessing DAs and *complying development*.

1.10 Design Review Panel

The owner of the land that forms the subject of the first *DA* will establish and implement a *Design Review Panel (DRP)*. The *DRP* will review all applications requiring a *Complying Development Certificate*, as well as all *DAs*. It will use the *Concept Plan*, the *Code*, the *Design Guidelines* (except in the case of a subdivision *DA*) and the relevant *Plan of Development* (except in the case of a subdivision *DA*) in undertaking that review and issuing a *Pre-Approval Certificate*. After obtaining a *Pre-Approval Certificate*, applicants then submit their application (with the *DRP's* formal documentation) to *Council* or an accredited certifier (see **Sections 5.7 and 5.8**).

1.11 Development Code Review

Objectives

- (1) To provide for the periodic review and amendment of the *Code*.

Controls

- (1) The initial developer must commence a review of the *Code* in consultation with the NSW Department of Planning within twelve months of the approval of the first *dwelling* on the site.

PART A – EXEMPT AND COMPLYING DEVELOPMENT

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2.0 EXEMPT AND COMPLYING DEVELOPMENT

This section of the Code contains objectives and development controls relating to Exempt and Complying Development.

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2.1 Exempt Development

Objectives

To specify minor development with minor environmental impacts that can proceed without any planning approval.

Controls

- (1) Comply with the standards in **Schedule 1 for the** relevant development type and the controls (2) - (3) below.
- (2) To be *exempt development*, the development must:
 - (a) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or if those provisions do not apply, shall be structurally adequate, and
 - (b) be more than 1 metre from any easement or public sewer main, stormwater main, water main or related fixture and comply with the requirements of the local sewer and water authority, and
 - (c) if it relates to an existing building, not cause the building to contravene the *Building Code of Australia*, and
 - (d) not be designated development, and
 - (e) be installed in accordance with the manufacturer's specifications, if applicable, and
 - (f) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and
 - (g) not be in conflict with any existing services, and
 - (h) if work involves any plumbing or drainage works, approval for such work under the Local Government Act must be obtained from the local water and sewer authority.
 - (i) not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.
- (3) Development that relates to an existing building that is classified under the *Building Code of Australia* as Class 1b or Class 2–9 is *exempt development* only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

Note 1. Specifying a type of development as *exempt development* does not authorise the contravention of any condition of a development consent or any design guideline applying to the land on which the *exempt development* is carried out, nor does it remove the need for any approval that may be required under other legislation or legal instrument.

Note 2. Adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licenses, permits and authorities still apply. For example, requirements relevant to development in this *Code* are contained in the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, various SEPPs, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992*, and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the applicant should contact the relevant infrastructure authority before commencing development.

Note 3. Section 76A ‘Development that needs consent’ of the [Environmental Planning and Assessment Act 1979](#) provides as follows:

“(1) General

If an environmental planning instrument provides that specified development may not be carried out except with development consent, a person must not carry the development out on land to which the provision applies unless:

- (a) such a consent has been obtained and is in force, and
 - (b) the development is carried out in accordance with the consent and the instrument.
- (2) For the purposes of subsection (1), development consent may be obtained:
- (a) by the making of a determination by a consent authority to grant development consent, or
 - (b) in the case of *complying development*, by the issue of a *complying development certificate*.

(3), (4) (Repealed)

(5) *complying development*

An environmental planning instrument may provide that development, or a *class* of development, that can be addressed by specified predetermined development standards is *complying development*.

(6) A provision under subsection (5) cannot be made:

- (a) (Repealed)
- (b) if the development is designated development, or
- (c) if the development is development for which development consent cannot be granted except with the concurrence of a person other than:
 - (i) the consent authority, or
 - (ii) the Director-General of the Department of Environment, Climate Change and Water as referred to in section 79B (3), or
- (d) so as to apply to land that is critical habitat, or
- (e) so as to apply to land that is, or is part of, a wilderness area (within the meaning of the [Wilderness Act 1987](#)), or
- (f) so as to apply to land that comprises, or on which there is, an item of the environmental heritage:
 - (i) that is subject to an interim heritage order under the [Heritage Act 1977](#), or that is listed on the State Heritage Register under that Act, or
 - (ii) that is identified as such an item in an environmental planning instrument, or
- (g) so as to apply to land that is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the *complying development*.

A provision made under subsection (5) has no effect in relation to development or land at any time during which the development or land is development or land to which paragraph (a)–(g) applies.

Note 1. Further provisions concerning *complying development* are found in Division 3 of this Part.”

Schedule 1

DIVISION 1 GENERAL AND RESIDENTIAL EXEMPT DEVELOPMENT CODE

Subdivision 1 Access ramps

2.1.1 Specified development

The construction or installation of an access ramp is development specified for this *Code*.

2.1.2 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be not more than 1m above *ground level (existing)*, and
 - (b) be constructed in accordance with AS 1428.1—2001, *Design for access and mobility—General requirements for access—New building work*, and
 - (c) not interfere with the functioning of existing drainage fixtures or the natural surface flow of water, and
 - (d) if it is located on bush fire prone land—be constructed of non-combustible material, and
 - (e) if *design guidelines* apply to the land, be constructed of a finish material permitted for use as driveway or pathway paving by the *design guidelines*.

Subdivision 2 Aerials and antennae

2.1.3 Specified development

The construction or installation of an aerial or antenna, including a microwave antennae, is development specified for this *Code*.

Note. See separate entry for communication dishes.

2.1.4 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be for domestic purposes only, and
 - (b) be located at least 0.9m from each lot boundary, and
 - (c) be roof mounted and not be higher than 0.6m higher than the highest point of the closest roof, and
 - (d) not be located on a roof facing a road or other public land frontage.
- (2) There shall not be more than one (1) development per lot, or, if there are multiple *dwellings* on a lot, no more than one (1) development per ten (10) *dwellings*.

Subdivision 3 Air-conditioning units

2.1.5 Specified development

The construction or installation of an air-conditioning unit is development specified for this *Code*.

2.1.6 Development standards

- (1) The standards specified for that development are that the development must:

- (a) be for domestic purposes only, and
 - (b) be located at least 0.45m from each lot boundary, and
 - (c) subject to paragraph (d), be attached to the external wall of a building or ground mounted, and
 - (d) be located no less than 0.9m behind the *frontage building line* and be screened by a fence of 1.2m *height* minimum if ground mounted or 1.8m *height* if wall mounted where the fence shall be located between the development and the public land frontage, and
 - (e) be not higher than 1.8m above *ground level (existing)*, and
 - (f) not involve work that reduces the structural integrity of the building, and
 - (g) not reduce the existing fire resistance level of a wall.
- (2) The standards specified for that development, if for purposes other than domestic purposes only, are that the development must:
- (a) not be located on the wall or roof of a building that faces the *primary road*, or forward of the *frontage building line* to the *primary road*, and
 - (b) not be built into any external wall unless the development is more than 3m from each side and rear boundary and 6m from any other building on the lot, and
 - (c) not involve work that reduces the structural integrity of the building, and
 - (d) not reduce the existing fire resistance level of a wall or roof.
- (3) Any opening created by the construction or installation of the development shall be adequately waterproofed, and
- (4) Any piping external to the existing wall of the building shall be housed within ducting and all ducting external to the existing building shall be of low-reflective, factory pre-coloured metal.

Subdivision 3A Animal shelters

2.1.6A Specified development

The construction or installation of an animal shelter is development specified for this *Code* if it is not constructed or installed on land in a foreshore area.

2.1.6B Development standards

- (1) The standards specified for that development are that the development must:
- (a) be for domestic purposes only, and
 - (b) not have a *floor area* of more than 2m², and
 - (c) be not higher than 1.2m above *ground level (existing)*, and
 - (d) be located behind the *building line* of any road frontage, and
 - (e) be located at least 450mm from each side and rear boundary, and
 - (f) have an impervious floor, and
 - (g) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non-combustible material, and
- (2) There must not be more than 1 development per lot.

Subdivision 4 Aviaries

2.1.7 Specified development

The construction or installation of an aviary is development specified for this *Code* if it is not constructed or installed on a lot in the Town Centre or on a lot of less than 600m² in area.

2.1.8 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be on properties used for domestic purposes only, and
 - (b) not be used for the keeping of poultry, and
 - (c) not have a *floor area* of more than 10m², and
 - (d) be not higher than 1.8m above *ground level (existing)*, and
 - (e) be located no less than 0.9m behind the *frontage building line*, and
 - (f) be located not less than 0.9m from each boundary, and
 - (g) be located no closer than ten (10) metres from a *dwelling* on any adjoining property, and
 - (h) have an impervious floor, and
 - (i) be constructed or installed so that roof water is disposed of without causing a nuisance to adjoining owners, and
 - (j) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (k) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non-combustible material.
- (2) There must not be more than one (1) development per lot.

Subdivision 5 Awnings, blinds and canopies

2.1.9 Specified development

The construction or installation of an awning, blind (including a storm blind, security blind or sun blind), canopy or similar structure over a window or door opening is development specified for this *Code*, if it is not constructed or installed on a lot in the Town Centre.

Note. See separate entry for shade structures.

2.1.10 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) not have an area more than 6m², and
 - (b) not project beyond the external wall of the building by more than 2m, and
 - (c) be located behind the *frontage building line*, and
 - (d) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (e) if it is located on bush fire prone land—be constructed of non-combustible material.

Subdivision 6 Balconies, decks, patios, pergolas, terraces and verandahs

2.1.11 Specified development

The construction or installation of a balcony, deck, patio, pergola, terrace or verandah (whether free standing or *attached* to the ground floor level of a building, or roofed or unroofed) is development specified for this *Code* if it is not constructed or installed on a lot in the Town Centre or on a lot of less than 200m² in area.

2.1.12 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) have an area of not more than 20m², and
 - (c) not cause the total *floor area* of all such structures on the lot to be more than 15% of the ground *floor area* of the *dwelling* on the lot, and
 - (d) not have an enclosing wall higher than 1.4m, and
 - (e) be located a minimum of 0.9m behind the *frontage building line*, and
 - (f) be located at least 0.9m from each lot boundary, and
 - (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (h) have a floor *height* not more than 1m above the adjacent *ground level (existing)*, and
 - (i) if it is a roofed structure:
 - (i) that is *attached* to a *dwelling*, not extend above the roof gutter line of the *dwelling*, and
 - (ii) have a roof not higher than 3m, at its highest point, above *ground level (existing)*, and
 - (j) if it is connected to a fascia, be connected in accordance with a *professional engineer's* specifications, and
 - (k) be constructed or installed so that any roof water is disposed of into an existing stormwater drainage system, and
 - (l) not interfere with the functioning of existing drainage fixtures or flow paths, and
 - (m) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non-combustible material.

Subdivision 7 Barbecues

2.1.13 Specified development

The construction or installation of a barbecue is development specified for this *Code*.

2.1.14 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) not have an area of more than 3m², and
 - (b) be not higher than 1.8m above *ground level (existing)*, and
 - (c) be located no less than 0.9m behind the *frontage building line*, and
 - (d) be located at least 0.45m from each lot boundary, and.

- (e) not be used for commercial purposes.

Subdivision 8 Bed and breakfast accommodation

2.1.15 Specified development

Bed and breakfast accommodation is development specified for this *Code* if it is carried out on land in the Town Centre or a Neighbourhood Centre and if it is not constructed or installed on a lot of 200m² or less in area.

2.1.16 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be in an existing *dwelling* that has a *floor area* not more than 300m², and
 - (b) consist of not more than 3 guest bedrooms.

Subdivision 9 Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses

2.1.17 Specified development

The construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or greenhouse is development specified for this *Code* if it is not constructed or installed on land in the Town Centre.

2.1.18 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be located on lots used for domestic purposes only, and
 - (b) not have a *floor area* of more than 20m² for lots of 800m² or greater and 9m² otherwise, and
 - (c) be not higher than 2.4m above *ground level (existing)*, and
 - (d) be located at least 0.9m from each lot boundary, and
 - (e) be located no less than 0.9m behind the *frontage building line* and be screened by a fence of 1.8m located between the development and the road or public land frontage, and
 - (f) not be a shipping container, and
 - (g) if constructed of metal, be a proprietary product constructed of low-reflective, factory pre- coloured metal, and
 - (h) be constructed or installed so that roof water is disposed of without causing a nuisance to adjoining owners, and
 - (i) except in the case of a gazebo or cabana used to shade outdoor *recreation areas*, not be constructed in a *principal private open space*, and
 - (j) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non-combustible material.
- (2) There shall not be more than 2 developments per *dwelling*.

Subdivision 10 Gatehouse

2.1.19 Specified development

The construction or installation of a gatehouse is development specified for this *Code*.

2.1.20 Development standards

- (1) The standards specified for that development are that the development must, when it is a gatehouse, not exceed an area of 1m.
 - (a) be located on a rear boundary with Cobaki Parkway or Sandy Lane on lots used for domestic purposes only, and
 - (b) not have a floor area of more than 4m², and
 - (c) be not higher than 2.5m above ground level (existing),
 - (d) be located at least 0.9m from each lot boundary;
 - (e) Be made from materials similar to the existing fencing or dwelling, maintain acoustic requirements and any roofing be of a similar pitch to the dwelling.

Subdivision 11 Business Identification Sign (in areas beyond Town Centre or Neighbourhood Centre)

2.1.21 Specified development

The construction or installation of a business identification sign is development specified for this *Code*.

Note. See Signage Controls in the Town Centre and Neighbourhood Centres. Refer to **Division 2 Commercial Exempt Development Code**.

2.1.22 Development standards

- (1) The standards specified for that development are that the development must, when it is a business identification sign, not exceed an area of 1m.
- (2) There must not be more than 1 development per *dwelling*.

Subdivision 12 Clothes hoists and clothes lines

2.1.23 Specified development

The construction or installation of a clothes hoist or clothes line is development specified for this *Code*.

2.1.24 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be located behind the *frontage building line*, and
 - (b) be screened by a fence of 1.8m *height* located between the development and the road or any public land frontage or any other lot, and
 - (c) be wall mounted onto an existing building wall, and
 - (d) not be located in a designated *private open space*, and

- (e) be located at least 0.45m from each lot boundary when fully extended, and
- (f) be at least partly covered by a roof eave, and
- (g) be constructed of low-reflective, factory pre-coloured materials.

Subdivision 13 Demolition

2.1.25 Specified development

Demolition of development that would be *exempt development* under this *Code* if it were being constructed or installed is development specified for this *Code*.

2.1.26 Development standards

The standards specified for that development are that the development must be carried out in accordance with Australian Standard AS 2601—2001 *The demolition of structures*.

Subdivision 14 Driveways

2.1.27 Specified development

The construction or installation of a driveway associated with access to an open *hard stand space*, a carport or *garage* is development specified for this *Code*.

2.1.28 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) be constructed so that any surface water is disposed of without causing a nuisance to adjoining owners, and
 - (c) not require cut or fill more than 0.6m below or above *ground level (existing)*, and
 - (d) be constructed in accordance with Australian Standard AS 2890.1:2004 *Parking facilities—Off-street car parking*, and
 - (e) be constructed in accordance with the relevant road authority's policy and specifications on vehicle and driveway crossings, and
 - (f) have the consent of the relevant road authority for all works and structures for the development of a private access within a public road in accordance with Section 138 of the Roads Act 1993, and
 - (g) where development consent or a design guideline document applies to the land, be constructed only of materials permitted by these documents.

Note. See Tweed Shire Council Driveway Access to Property- Design Specification Version 1.4.

Subdivision 15 Earthworks and retaining walls

2.1.29 Specified development

Earthworks and the construction or installation of a retaining wall is development specified for this *Code*.

Note. Activities carried out in connection with the erection or alteration or provision of *ancillary development* for an existing *dwelling house* or Multi-unit House, are exempt from

Section 91E (1) of the Water Management Act 2000, but excluding any activity carried out in, on or over the bed of any river, lake or estuary by virtue of Clause 39A (2)(g) of the Water Management (General) Regulation 2004.

2.1.30 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be for domestic purposes only, and
 - (b) be located at least 0.9m from each lot boundary, except where the earthworks or retaining wall are/is constructed in association with a built-to-boundary wall, and
 - (c) if a retaining wall be not higher than:
 - (i) 0.6m at any point as measured from *ground level (existing)* except as noted in (ii) below, and
 - (ii) be not higher than 0.8m above *ground level (existing)* at each step, if it is on a sloping site and stepped to accommodate the fall in the land, and
 - (d) have adequate drainage lines behind it, and
 - (e) not require cut or fill more than 0.6m below or above *ground level (existing)*, and
 - (f) not redirect the flow of surface water onto an adjoining property, and
 - (g) cause surface water to be disposed of without causing a nuisance to adjoining owners, and
 - (h) where a development consent or *design guidelines* apply to the land, be constructed only of materials permitted by the consent or *design guidelines*, and
 - (i) be located at least 6m from a waterbody (existing).

Subdivision 16 Events on Council Administered Land

2.1.31 Specified development

The conduct of an event on *Council* administered land, including road reserves, for non-commercial activities (i.e., by a not-for-profit or community organisation) that require a temporary licence is development specified for this *Code*.

Note. Includes organised events such as surf carnivals, carols nights, outdoor movie nights, community awareness programs, markets, fund raising activities and the like.

2.1.32 Development standards

The standards specified for that development are that the development must comply with the requirements of the *Tweed Procedure for issuing temporary licences for events on Council administered land, including Road Reserves* as well as all other applicable *Council* policies.

Subdivision 17 Film Shoots Production

2.1.33 Specified development

Film shoots production on *Council* administered land, including road reserves, is development specified for this *Code*.

2.1.34 Development standards

- (1) The standards specified for that development are that the development must:

- (a) comply with the requirements of the *Procedure for issuing temporary licenses for events on Council administered land, including Road Reserves*.

Subdivision 18 Flagpoles

2.1.35 Specified development

The construction or installation of a free-standing flagpole is development specified for this Code.

2.1.36 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be not higher than 6m above *ground level (existing)*, and
 - (b) not have a diameter of more than 0.09m, and
 - (c) be located at least 3m from each lot boundary, and
 - (d) be constructed of low-reflective, factory pre-coloured metal or low-reflective stainless steel.
- (2) There must not be more than 1 development per lot.
- (3) Any flag flown from the development must not have an area of more than 2.5m² and must not be used for advertising.

Subdivision 19 Home businesses, home industries and home occupations

2.1.37 Specified development

A home business, a home industry or a home occupation is development specified for this Code.

2.1.38 Development standards

The standard specified for this development is that it must not involve a change of building use.

Note 1. The elements that must comprise this development are specified in the definition of home business, home industry or home occupation in the *standard instrument*.

Note 2. Under the *Building Code of Australia*, a change of building use involving a *floor area* greater than 10% of the *floor area* of a building would cause the building to contravene the development standard.

Subdivision 20 Home-based child care

2.1.39 Specified development

Home-based child care is development specified for this Code if it is not carried out on bush fire prone land.

2.1.40 Development standards

No standards are specified for this development.

Note. The elements that must comprise this type of development are specified in the definition for this development in the *standard instrument*. If all the elements are not present, the development is not development to which this Division applies.

Subdivision 21 Hot Water Systems (Not Including Solar Hot Water Systems)

2.1.41 Specified development

The construction or installation of a gas or heat exchange type hot water heater or a hot water storage tank is development specified for this *Code*.

2.1.42 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) if constructed or installed externally:
 - (i) not be located on a roof, and
 - (ii) be located a minimum of 900mm behind the *frontage building line* of a road or public land frontage, and
 - (iii) be screened with a fence of 1.8m high between the appliance and the road or public land frontage and/or any other lot.

Note. For solar systems refer to Subdivision 39, Solar Hot Water Systems and Photovoltaic Systems below.

Subdivision 22 Landscaping structures

2.1.43 Specified development

The construction or installation of a landscaping structure (including a garden arch), other than a retaining wall is development specified for this *Code*.

2.1.44 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be not higher than 2.1m above *ground level (existing)*, and
 - (b) not have a plan dimension of more than 1.5m in any direction, and
 - (c) be located at least 0.9m from each lot boundary, and
 - (d) be located behind the *frontage building line* of a road frontage, and
 - (e) not comprise masonry construction higher than 1m from *ground level (existing)*.

Subdivision 23 Letterboxes

2.1.45 Specified development

The construction or installation of a letterbox, whether free standing or in banks, is development specified for this *Code*.

2.1.46 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be not higher than 1.2m above *ground level (existing)*, and
 - (b) be visible from the road alignment, and
 - (c) have numbering that is visible from the road alignment, and
 - (d) be constructed of masonry and containing a proprietary, corrosion-resistant metal insert.
- (2) There must be only 1 development per *dwelling* plus 1 development where a body

corporate/owners' corporation letterbox is required.

Subdivision 24 Minor building alterations (internal)

2.1.47 Specified development

- (1) A minor internal building alteration, for the replacement or renovation of:
 - (a) a doorway, wall, ceiling or floor lining, or
 - (b) a deteriorated frame member, or
 - (c) a bathroom or kitchen, or
 - (d) a built-in fixture such as a vanity, a cupboard or a wardrobe, or
 - (e) an existing sanitary fixture, such as a grease trap or the like, or
 - (f) shelving or racking that is not higher than 2.7m, or
 - (g) a work station or counter.
- (2) The installation of new or replacement insulation material in the ceiling, floor or wall of a building is also development specified for this *Code*.

2.1.48 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) not be an alteration to a food preparation area in *food and drink premises*, and
 - (b) if it is the replacement or renovation of a deteriorated frame member—be of equivalent or improved quality materials, and
 - (c) not include a change to the configuration of a room, whether by the addition or removal of an existing wall, partition or other means, and
 - (d) not cause reduced window arrangements for light and ventilation needs, reduce the size of a doorway or involve the enclosure of an open area, and
 - (e) not affect the load bearing capacity (whether vertical or horizontal) of a building, and
 - (f) not include a change to the fire resisting components of, or interfere with the entry to or exit from, or the fire safety measures contained within, a building, and
 - (g) if it is the installation of new or replacement insulation material in a *dwelling*, it must be in accordance with Part 3.12.1 of the *Building Code of Australia*.

Subdivision 25 Minor building alterations (external)

2.1.49 Specified development

- (1) A minor external non-structural building alteration such as the following:
 - (a) painting, plastering, cement rendering, cladding, attaching fittings or decorations, or
 - (b) the replacement of an external window, glazing areas or a door of the same colour and of equivalent or improved quality, or
 - (c) the repair to or replacement of a non-structural wall or roof cladding, is development specified for this *Code*.

2.1.50 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) not comprise the making of, or an alteration to the size of, any opening in a floor, wall

- or roof, such as a doorway, window or skylight, and
- (b) not reduce the existing fire resistance level of a floor, wall, window, door, or roof, and
- (c) not reduce the existing sound transmission class of a floor, wall, window, door, or roof, and
- (d) not reduce the existing thermal insulation value of a floor, wall, window, door, or roof, and
- (e) if located on bush fire prone land:
 - (i) be adequately sealed or protected to prevent the entry of embers, and
 - (ii) use equivalent or improved quality materials.
- (f) not affect any existing fire resisting components of the building, and
- (g) not affect the means of egress from the building in an emergency (including the provision of any additional locking that may be a component of the development), and
- (h) if it is the installation of a security screen or grill to a door or window or a security door—be for domestic purposes only.

Note. See Subdivision 38 below for skylights.

Subdivision 26 Noxious Weed Control

2.1.51 Specified development

The control of noxious weeds is development specified for this *Code*.

2.1.52 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be authorised under the *Noxious Weeds Act 1993*, and
 - (b) be carried out by methods that will not have an impact on native flora and fauna or create problems with land degradation, including soil erosion, coastal erosion and siltation of water bodies.

Subdivision 27 Pathways and paving

2.1.53 Specified development

The construction or installation of a pathway or paving associated with a balcony, deck, patio, pergola, terrace or verandah is development specified for this *Code*.

2.1.54 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) be constructed within the boundaries of the land, and
 - (c) be constructed so that any surface water is disposed of without causing a nuisance to adjoining owners, and
 - (d) not require cut or fill more than 0.6m below or above *ground level (existing)*, and
 - (e) be within 0.15m of *ground level (existing)* where located within 0.9m of any lot boundary, and

- (f) not have an area more than 15% of the ground *floor area* of the associated development, and
- (g) where a development consent or a guideline document applies to the lot, be constructed only of materials permitted by these documents, and
- (h) not cause the coverage of more than 90% of the lot with impervious materials.

Subdivision 28 Playground equipment

2.1.55 Specified development

The construction or installation of playground equipment is development specified for this *Code*.

2.1.56 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) be not higher than 2.5m above *ground level (existing)*, and
 - (c) be located not less than 0.9m behind the *frontage building line* of any road or public land frontage.

Subdivision 29 Portable swimming pools and spas and child-resistant barriers

2.1.57 Specified development

The construction or installation of a portable swimming pool or spa or a child-resistant barrier that is required under the *Swimming Pools Act 1992* is development specified for this *Code*.

2.1.58 Development standards

- (1) The standards specified for that development if it is the construction or installation of a portable swimming pool or spa are that the development must:
 - (a) be for domestic purposes only, and
 - (b) be located behind the *frontage building line* of a road or public land frontage, and
 - (c) be located at least 1m from each lot boundary, and
 - (d) not include any element that extends higher than 2m above the *ground level (existing)*, and
 - (e) not exceed 2,000 litres in capacity, and
 - (f) in the case of a swimming pool, not be constructed on a lot of 200m² or less, and
 - (g) not require structural work for installation, and
 - (h) not impact on the structural stability of any building.
- (2) A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992* and any conditions of the development consent applying to the land.

Subdivision 30 Privacy screens

2.1.59 Specified development

The construction or installation of a privacy screen that is not *attached* to a boundary fence or

retaining wall is development specified for this Code if it is not constructed or installed on a lot of 200m² or less in area.

2.1.60 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be not higher than 2.5m above *ground level (existing)*, unless fixed to the building in accordance with (f) below, and
 - (b) be not longer than 5m, and
 - (c) be located at least 0.9m from each lot boundary, and
 - (d) be located no less than 0.9m behind the *frontage building line* of a road or public land frontage (unless it is fixed to a balcony or terrace in accordance with (f) below), and
 - (e) be constructed of tube form metal in a low reflective, factory pre-coloured finish or dressed and stained timber in either a lattice, batten or louvre configuration, and
 - (f) if fixed to an existing building wall, balcony or terrace, be fixed in a structurally sound manner and in a colour *matching* that of the existing building wall or column to which it is fixed.

Subdivision 30A Public Art

2.1.61 Specified development

The construction or installation of public art is development specified for this Code.

2.1.62 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be consistent with a Plan of Management for the site.

Subdivision 31 Rainwater tanks (above ground)

2.1.63 Specified development

The construction or installation of a rainwater tank above ground is development specified for this Code.

2.1.64 Development standards

- (1) The standards specified for that development are that the development must:
- (a) have a capacity of:
 - (i) if for an educational establishment—not more than 25,000 litres, and
 - (ii) in any other case—not more than 10,000 litres, and
 - (b) be located at least 0.45m from each lot boundary if the tank has a *height* of more than 1.8m above *ground level (existing)*, and
 - (c) be located no less than 0.9m behind the *frontage building line* of any road or public land frontage, and
 - (d) be screened with fencing of 1.8m *height* located between the development and the road or public land frontage and/or any other lot, and
 - (e) not rest on the footings of an existing building for support, and
 - (f) not require cut and fill of more than 1m below or above *ground level (existing)* or that is within 0.9m of any lot boundary, and

- (g) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank which is of a colour *matching* the colour of the tank, and
 - (h) have a sign affixed to it stating the water in it is rainwater, and
 - (i) be constructed or installed to prevent mosquitoes breeding in it, and
 - (j) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property or cause a nuisance to adjoining owners, and
 - (k) be constructed in low-reflective, factory pre-coloured materials.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water supply without the prior approval of the relevant water authority.
- (4) In this clause:
- educational establishment*** means a building or place used for education (including teaching), being:
- (a) a school, or
 - (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

Subdivision 32 Rainwater tanks (below ground)

2.1.65 Specified development

The construction or installation of a rainwater tank below ground is development specified for this *Code*.

2.1.66 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank, and
 - (b) have a sign affixed to it stating the water in it is rainwater, and
 - (c) be constructed or installed to prevent mosquitoes breeding in it, and
 - (d) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners, and
 - (e) be located no less than 0.9m behind the *frontage building line* of a road or public land frontage unless completely submerged below ground with the exception of a cover that either is screened within a garden with planting or is exposed in a paved area and treated with the same paving finish as the surrounding area.
- (2) Pumps attached to the development must be housed in a soundproof enclosure.
- (3) If reticulated water is provided to the lot, the development must not be connected to reticulated water supply without the prior approval of the local water authority.

Subdivision 33 Real Estate Advertisements

2.1.67 Specified development

The installation of real estate advertisements is development specified for this *Code*.

2.1.68 Development standards

- (1) The standards specified for that development are that the development must:
- (a) not be within 250m of, and visible from a *classified road*, and
 - (b) be temporary and limited to a maximum period of twelve months, and
 - (c) be limited to 1 sign per lot (before subdivision) or development, and
 - (d) not be flashing or animated, and
 - (e) be a maximum *height* of 8m above *ground level (existing)*, and
 - (f) have a maximum advertising display area of:
 - (i) if advertising 1 *dwelling*, 2.17m², and
 - (ii) if advertising a multi-dwelling development of less than ten (10) *dwellings*, 8.64m², and
 - (iii) if advertising a multi-dwelling development of ten (10) or more *dwellings*, 20m², and
 - (iv) if advertising a commercial building, is 4.34m², and
 - (v) if advertising a commercial or industrial property, is 20m², and
 - (vi) if advertising a subdivision of less than two (2) hectares, is 8.64m², and
 - (vii) if advertising a subdivision of between two (2) and ten (10) hectares, is 17.28m², and
 - (viii) if advertising a subdivision of more than ten (10) hectares, is 20m².

Subdivision 34 Scaffolding, hoardings and temporary construction site fences

2.1.69 Specified development

The construction, installation and removal of a scaffold, hoarding or temporary construction site fence that is used in connection with development that is *exempt development* or *complying development* is development specified for this *Code*.

2.1.70 Development standards

- (1) The standards specified for that development are that the development must:
- (a) enclose the works area, and
 - (b) if it is a temporary construction site fence adjoining, or on, a public place – be covered in chain wire mesh, and
 - (c) be removed immediately after the purpose for which it was erected has finished and no safety issue will arise from its removal.

Note 1. A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

Note 2. The *Occupational Health and Safety Act 2000* and *Occupational Health and Safety Regulation 2001* contain provisions relating to scaffolds, hoardings and other temporary structures.

Subdivision 35 Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs)**2.1.71 Specified development**

The construction or installation of a screen by attaching it to a balcony, deck, patio, pergola, terrace or verandah of a *dwelling* is development specified for this *Code*.

2.1.72 Development standards

- (1) The standards specified for that development are that the development must:
- (a) not have a solid enclosing wall higher than 1.4m above the floor level of the structure it is enclosing, and
 - (b) if it encloses a structure *attached* to the ground level of a single *storey dwelling* or the upper level of a two *storey dwelling*—not be higher than the adjacent roof eave line, and
 - (c) if it encloses a structure *attached* to the ground level of a two *storey dwelling*—not be higher than 3m above the floor level of the structure it is enclosing and is not higher than the adjacent first floor roof eave line, and
 - (d) if it encloses a freestanding structure—not be higher than 3m above the floor level or not be higher than the roof eave line of the structure it is enclosing, and
 - (e) if it encloses a structure *attached* to the upper level of a two *storey dwelling*—not enclose an area of more than 9m², and
 - (f) be located no less than 0.9m behind the *frontage building line* of any road or public land frontage, and
 - (g) be located at least 0.9m from each lot boundary, and
 - (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (i) if it is connected to a fascia—be connected in accordance with a *professional engineer's* specifications, and
 - (j) have at least two-thirds of its perimeter comprising open screen mesh material, and
 - (k) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non combustible material.

Subdivision 36 Shade structures of canvas, fabric, mesh or the like**2.1.73 Specified development**

The construction or installation of a shade structure of canvas, fabric, mesh or the like is development specified for this *Code*.

Note. See separate entry for awnings, blinds and canopies.

2.1.74 Development standards

- (1) The standards specified for that development are that the development must:
- (a) be for domestic purposes only, and
 - (b) not have an area more than 15m² for *single dwelling* lots of 300m² or more or otherwise 9m², and
 - (c) not cause the total area of all such structures on the lot to be more than 15% of the

- ground *floor area* of the *dwelling* on the lot, and
- (d) not be higher than 3m from *ground level (existing)*, and
 - (e) be located at least 0.9m from each lot boundary, and
 - (f) be located no less than 0.9m behind the *frontage building line*, and
 - (g) within an *articulation zone* or *setback* of any public land frontage, and
 - (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (i) if it is connected to a fascia—be connected in accordance with a *professional engineer's* specifications, and
 - (j) not interfere with the functioning of existing drainage fixtures or flow paths, and
 - (k) if it is located on bush fire prone land and is less than 5m from a *dwelling*—be constructed of non-combustible material.

Subdivision 37 Skylights, roof windows and ventilators

2.1.75 Specified development

The construction or installation of a skylight, roof window or ventilator is development specified for this *Code*.

2.1.76 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) not cause the total area of all such structures to be more than 2% of the total roof area of the building, and
 - (c) be located at least 0.9m from each lot boundary, and
 - (d) be located at least 0.9m from a wall separating *attached dwellings*, and
 - (e) be constructed or installed so that any opening created is adequately weather proofed, and
 - (f) not involve work that reduces the structural or fire resisting/separation integrity of the building, and
 - (g) if located on bush fire prone land—be adequately sealed or protected to prevent entry of ember.

Subdivision 38 Solar Hot Water Systems and Photovoltaic Systems

2.1.77 Specified development

The construction or installation of a photovoltaic system or solar hot water system is development specified for this *Code*.

2.1.78 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be integrated into the building or be flush or parallel with the surface of its roof, and
 - (b) not:

- (i) reduce the structural or fire resisting/separation integrity of, or involve structural alterations to, the building, or
- (ii) necessitate the removal of trees from near the building to ensure that solar energy is available for the system.

Subdivision 39 Temporary builders' structures

2.1.79 Specified development

The construction or installation of a building site shed, office or associated amenities structure is development specified for this *Code*.

2.1.80 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be located on the lot in relation to which a current development consent has been granted, and
 - (b) if it contains plumbing fixtures, have those fixtures connected to an approved waste water treatment device or an approved connection to the sewer, and
 - (c) not be used for residential purposes, and
 - (d) be removed from the lot immediately after completion of the works for which the development consent was granted.
 - (e) not be connected to a reticulated town water or sewer without the prior approval of the local water and sewerage authority.

Subdivision 40 Underground Telecommunications Facilities

2.1.81 Specified development

The construction or installation of an underground conduit or cable deployed by narrow trench or direct burial is development specified for this *Code* if it is on land covered by an approved *plan of development* and not on land that is within an environmental protection area defined on the *concept plan*.

2.1.82 Development standards

- (1) The standards specified for that development are that the development must:
 - (a) not have a trench width exceeding 0.45m, and
 - (b) not leave open more than 100m length of excavation at any one time, and
 - (c) be completed in accordance with a reinstatement plan agreed to prior to construction with the owner or, if on public land, the public land manager, and the reinstatement plan must include (as appropriate):
 - (i) management and protection measures, and
 - (ii) relaying of existing road or pavement, and
 - (iii) replanting of grass, trees or foliage, and
 - (iv) replacement or removal of material removed, and
 - (v) reinstatement of existing contours.
- (2) Notification must be carried out in accordance with the requirements of Chapter 4, Part 5 of

Telecommunications Code of Practice 1997 (Cth) prior to the commencement of any works.

Subdivision 41 Water features and ponds

2.1.83 Specified development

The construction or installation of a water feature or pond is development specified for this *Code*.

2.1.84 Development standards

- (1) The standards specified for that development are that the development must:
- (a) not have a water depth of more than 0.3m, and
 - (b) not have a surface area of more than 10m², and
 - (c) be located behind the *frontage building line* of any road frontage.

DIVISION 2 COMMERCIAL EXEMPT DEVELOPMENT CODE

Subdivision 1 Advertising Signs and Business Identification Signs in Town Centre and Neighbourhood Centre

2.1.85 Specified development

The erection or installation of an advertising sign or building identification sign in the Town Centre or a Neighbourhood Centre is development specified for this *Code*.

2.1.86 Development standards

The standards specified for that development are that the development must:

- (a) when it is a suspended under awning sign,
 - (i) not exceed one per premises with ground level street frontage, and
 - (ii) be securely fixed by metal supports, and
 - (iii) not exceed 1.5m² in area, and
 - (iv) if over a public road, be suspended at a *height* not less than 2.6m above the ground/pavement level (finished) and be no less than 0.3m in plan from any traffic lane, and
- (b) when a vertical or horizontal projecting wall sign
 - (i) not exceed one per premises or one per street frontage, whichever is the greater, and
 - (ii) not exceed 2.5m² in area, and
 - (iii) be securely fixed by metal supports, and
 - (iv) if over a public road, erected at a *height* no less than 2.6m above the adjacent ground/pavement level (finished) and be no less than 0.3m in plan from any traffic lane, and
- (c) when a flush wall sign:
 - (i) not exceed 2.5m² in area, and
 - (ii) be securely fixed, and
 - (iii) if over a public road, be erected at a *height* no less than 2.6m above ground/pavement level (finished) and be no less than 0.3m in plan from any traffic lane, and
- (d) when a top hamper sign,
 - (i) be securely fixed, and
 - (ii) not exceed 2.5m² in area, and
- (e) when a fascia sign,

- (i) not project above or below the fascia or return of the awning to which it is *attached*, and
- (ii) not extend more than 0.3m from the face of the fascia or return end of the awning, and
- (f) when a public notice, be a notice for public information displayed by a public authority giving information or direction about services provided.

Subdivision 2 Automatic teller machines

2.1.87 Specified development

The construction or installation of an automatic teller machine is development specified for this *Code*.

2.1.88 Development standards

The standards specified for that development are that the development must be located inside and only be accessible from within existing bulky goods premises or *Commercial premises*.

Subdivision 3 Change of Use

2.1.89 Specified development

- (1) A change from a current use to a new use that is a change from:
 - (a) a type of *business premises* to another type of *business premises*, or
 - (b) *business premises* to *office premises*, or
 - (c) a type of *office premises* to another type of *office premises*, or
 - (d) *office premises* to *business premises*, or
 - (e) a type of *retail premises* to another type of *retail premises*, or
 - (f) a bulky goods premises to another bulky goods premises, or
 - (g) a light industry another light industry, or
 - (h) a warehouse or distribution centre to another warehouse or distribution centre, or
 - (i) a light industry to a warehouse or distribution centre, or
 - (j) a warehouse or distribution centre to a light industry
 is development specified for this *Code*.

2.1.90 Development standards

- (1) The standards specified for that development are that:
 - (a) the current use must be a lawful use, and
 - (b) the current use must not be an existing use within the meaning of section 106 of the Environmental Planning and Assessment Act 1979, and
 - (c) the new use shall be a permissible use in the Land Use Table of the Cobaki Estate Development Matrix (**Figure 1.2.2**), and
 - (d) the new use must not result in a change of building use under the Building Code of Australia, and
 - (e) the new use must not be carried out at premises that are a manufactured home, moveable *dwelling* or associated structure, temporary structure, tent, swimming pool, ship or vessel, and

- (f) the new use must not be any of the following:
 - (i) *food and drink premises*, or
 - (ii) a funeral chapel, or
 - (iii) a funeral home, or
 - (iv) *retail premises* where firearms within the meaning of the *Firearms Act 1996* are sold, or
 - (v) landscape and garden supplies, or
 - (vi) a market, or
 - (vii) premises that are a beauty salon or hair dressing salon, or
 - (viii) premises where a skin penetration procedure within the meaning of Section 51 of the *Public Health Act 1991* is carried out, or
 - (ix) restricted premises, or
 - (x) a roadside stall, or
 - (xi) sex services premises, or
 - (xii) vehicle sales or hire premises, and
- (g) the new use must not involve building alterations, other than alterations that are *exempt development* under this *Code*, and
- (h) the new use must not result in an increase in the *gross floor area* of any building within which it is carried out, and
- (i) the new use must not cause the contravention of any existing condition of a development consent or building guideline that applies to the premises relating to hours of operation, car parking, vehicular movement, traffic generation, landscaping or waste management.

2.2 Complying Development

Objectives

To specify development, or a class of development, that can be addressed by specified predetermined development standards as *complying development*. *Complying development* requires a *complying development certificate* (CDC) to be issued by either the *Council* or an *accredited certifier*.

Controls

- (1) Development specified in **Schedule 2** that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is *complying development*.
- (2) To be *complying development*, the development specified in **Schedule 2** must:
 - (a) have a *DRP pre-approval certificate* confirming compliance with *design guidelines* where *design guidelines* apply to the land the subject of the development, and
 - (b) comply with the development standards specified in relation to that development, and
 - (c) comply with the requirements of this Part, and
 - (d) meet the relevant provisions of the *Building Code of Australia*, and
 - (e) the development must comply with the requirements of Section A3 (Development of Flood Liable Land) of *Tweed DCP*.
- (3) Development cannot be *complying development* if:
 - (a) the development is designated development, or
 - (b) it is on land shown as zoned Environmental Protection on the land use zoning maps, or
 - (c) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat identified under the *Threatened Species Conservation Act 1995*), or
 - (d) the development conflicts with the provisions of the *Building Code of Australia* or any other applicable legislation, or
 - (e) the land is contaminated land that requires remediation in accordance with *State Environmental Planning Policy No. 55 – Remediation of Land*.
- (4) A *complying development certificate* for development specified in **Schedule 2** is subject to the conditions set out in **Schedule 3**.
- (5) Rainwater harvesting is to be provided in accordance with Appendix C unless the subject land has a reticulated recycled water supply.

Note 1. Section 76A (6) of the *Environmental Planning and Assessment Act 1979* provides that certain development, such as designated development, or development requiring the concurrence of another body, or development on land comprising, or on which there is, a *heritage item*, cannot be *complying development*.

Note 2. Under section 76A of the *Environmental Planning and Assessment Act 1979*, development consent for the carrying out of *complying development* may be obtained by the issue of a *complying development certificate*.

Note 3. See also clause 13(3) of *SEPP 4* which provides that the conversion of fire alarms is *complying development* in certain circumstances.

Note 4. For the purpose of this *Code*, a *single dwelling* includes a Traditional detached *dwelling house*, Zero-lot, Terrace and *shop top housing* dwellings.

Note 5. Applicants should be aware of any easements affecting land to which their development applies.

Note 6. The requirement in Control (5) above may include any rain water storage required to comply with State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Schedule 2

DIVISION 1 RESIDENTIAL COMPLYING DEVELOPMENT CODE

1. Subdivision 1(aa) Specified Complying Development Under This Code

2.2.1^(aa) Specified Complying Development

The erection of a new (or additions or alterations to an existing) *dwelling house, semi-detached dwelling, shop top housing, dual occupancy, multi dwelling housing, secondary dwelling* and *ancillary development* is development specified for this *Code*.

2.2.1^(ab) Basements and roof terraces excluded

- (1) The erection of a *basement*, either as part of a new *dwelling house, secondary dwelling, dual occupancy* or *multi dwelling housing*, or as an addition or alteration to an existing *dwelling house, secondary dwelling, dual occupancy, multi dwelling housing*, is not included in development that is specified for this *Code*.
- (2) The erection of a roof terrace on the topmost roof of:
 - (a) an existing or a new *dwelling house, dual occupancy* or *multi dwelling housing*, or
 - (b) an existing or a new *outbuilding* that is *detached* from a *dwelling house, dual occupancy* or *multi dwelling housing*,
 is not included in development that is specified for this *Code*.

Subdivision 1(ab) Bush fire prone land

2.2.1^(ac) Development standards

- (1) Development specified for this *Code* that is to be carried out wholly or partly on bush fire prone land may be carried out on a lot only if:
 - (a) the part of the lot on which the development is to be carried out has been certified as not being within the flame zone, and
 - (b) the lot has direct access to a dedicated public road, and
 - (c) a reticulated water supply is connected to the lot, and
 - (d) a fire hydrant is located less than 60 metres from the location on the lot of the proposed development, and
 - (e) mains electricity is connected to the lot.

Note 1. The requirements of AS 3959-2009, *Construction of buildings in bush fire prone areas*, effective 1 May 2010, set out in the Building Code of Australia also apply.
- (2) In this clause:

certified means certified by:

 - (a) the NSW Rural Fire Service within the first 16 months of the commencement of this *Code* or
 - (b) a person who is a qualified consultant.

Note 1. qualified consultant means a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment.

Note 2. flame zone means the distance from a bush fire at which there is significant potential for sustained flame contact to a building. The flame zone is determined by the calculated distance at which the radiant heat of the design exceeds BAL 40 or calculated by the sustained flame length, whichever is the lesser.

Note 3. Clause 127A of the *Environmental Planning and Assessment Regulation 2000* requires a *Council* or *accredited certifier* to seek confirmation of the bush fire risk category of land.

Schedule 2 to that Regulation requires an application by a diagram illustrating the bush fire risk categories of the land on which the development is to be carried out.

More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.2 of the publication entitled "Planning for Bush Fire Protection" published by NSW Rural Fire Service in 2006 [ISBN 0 9751033 2 6].

Subdivision 1 Site requirements

2.2.1 Lot requirements

- (1) Development specified for this Code must only be carried out on a lot that:
 - (a) is a *nominated lot* for the type of development proposed, and
 - (b) has a direct connection to Council's reticulated water supply and sewer.
- (2) A lot on which new *dwellings* are erected must have lawful access to a public road.

2.2.2 Site Coverage and Maximum floor area for Dwellings

- (1) The *floor area* of a *dwelling* must not be more than the following:
 - (a) on a lot of less than 400m², 1.5 times the area of the lot for a two or three storey *dwelling*; *and*
 - (b) on a lot of at least 400m², 1.25 times the area of the lot for a two or three storey *dwelling*.
 - (c) on a lot equal to or greater than 200m² and less than 300m², site coverage shall not exceed 70% and the maximum floor area shall not exceed 2 times the area of the lot for a two or three storey dwelling; *and*
 - (d) on a lot less than 200m², site coverage shall not exceed 85% and the maximum floor area shall not exceed 2 times the area of the lot for a two or three storey dwelling.

Note 1. In the case of a single storey dwelling, no maximum *floor area* control applies as those dwellings will be limited in scale through all other provisions of the Code, including setbacks and private open space controls.

- (2) For the purpose of calculating the *floor area* in sub clause (1):

floor area means the sum of the areas of each *storey* of the *dwelling* and carport, *garage*, balcony, deck, patio, pergola, terrace or verandah, measured at a *height* of 1.4m above each floor level, where the area is taken to be the area within the outer face of:

 - (a) the external walls of the *dwelling*, and
 - (b) the walls or balustrade of the carport, *garage*, balcony, deck, patio, pergola, terrace or verandah, but excluding any of the following:
 - (i) any part of an awning, blind or canopy that is outside the outer wall of a building, or
 - (ii) an eave, or
 - (iii) a lift shaft, or
 - (iv) a stairway, or
 - (v) void above a lower *storey*.

2.2.2(aa) Maximum floor area for Secondary dwellings

- (1)

The *gross floor area* of one of the dwellings shall not exceed 60m², or 40% of the total *floor area* of the *secondary dwelling* and *principle dwelling*, whichever is the greater.

- (2) The *floor area* of all buildings on a lot must not be more than the maximum *floor area* allowed for a *dwelling* on the site as provided in **Section 2.2.2** above.

2.2.3 Maximum floor area for Outbuildings

- (1) The *floor area* of an *outbuilding* on a lot of at least 600m² and designated for any *dwelling* type must not be more than 12m².
- (2) For the purpose of calculating the *floor area* in sub clause (1):

floor area means the sum of the areas of each *storey* of the *outbuilding*, measured at a *height* of 1.4m above each floor level, where the area of each *storey* is taken to be the area within the outer face of:

- (a) the external walls of the *outbuilding* if it is enclosed, and
- (b) the supporting columns or posts of the *outbuilding* if it is not enclosed, but excluding any of the following:
 - (i) any part of an awning, blind or canopy that is outside the outer wall of a building,
 - (ii) an eave, or
 - (iii) a stairway.

Subdivision 2 Building Heights and Setbacks

2.2.4 Building Heights of Dwellings and Outbuildings

- (1) The maximum *building height* of a *dwelling house* must not be more than 5m above *ground level (existing)* for a one storey dwelling, 9m for a two storey dwelling and 12m for a three storey dwelling (see Figure 2.2.4.1).

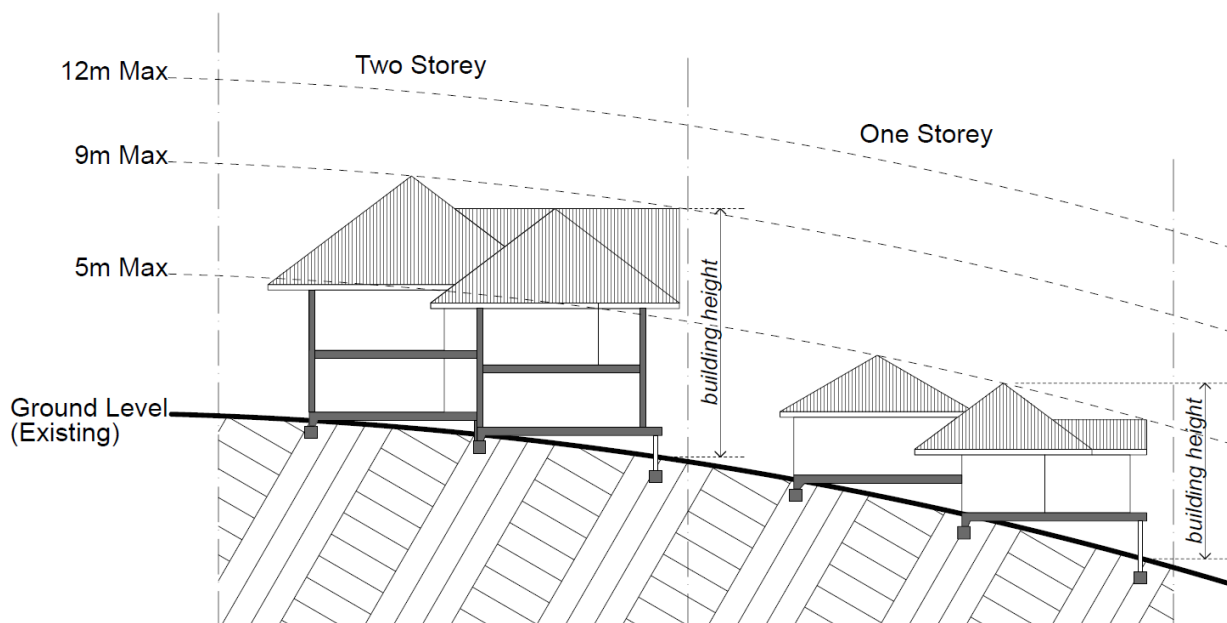


Figure 2.2.4.1 Overall Building Height

Note 1. Also refer to s2.2.6 and 2.2.7 regarding *setback* requirements relating to *building height*.

- (2) The maximum *building height* of an *outbuilding* on a lot nominated for a *dwelling* must not be more than 4m above *ground level (existing)*.
- (3) *dwellings* are to be a maximum of two storeys in *height*, subject to sub clauses (4) and (5).

- (4) A third *storey* is permitted (with a DRP Pre Approval Certificate) where it can be demonstrated that the *dwelling* is located:
- (a) on a lot designated for three (3) *storey* construction on a *plan of development*, or otherwise not in contradiction to any control in the *plan of development*, or
 - (b) on a prominent street corner, or
 - (c) adjacent to a neighbourhood or local centre or public open space, or a golf course, or a riparian corridor, or
 - (d) on land with a *ground level (existing)* slope equal to or more than 15%, in which case a partial third *storey* (not being a *basement*) is permitted below two upper levels, or
- (5) Wall lengths of a *height* of two *storeys* or more must not exceed 30% of the length of the side boundary where the *setback* to that boundary is less than 2.0m, with the exception of *attached dwelling* and *shop top housing*.
- (6) Wall lengths for an Attached Dwelling, of a height of two storeys or more shall not exceed 60% of the side boundary where the setback to that boundary is less than 1m.

2.2.5 Setbacks of Dwelling Houses, Semi -detached Dwelling house, Attached Dwelling, Secondary Dwelling and Dual Occupancies and Ancillary Development from roads, other than classified roads

- (1) For the purpose of this *Code*, the terminology used for frontage *setbacks* is defined by the following diagram:

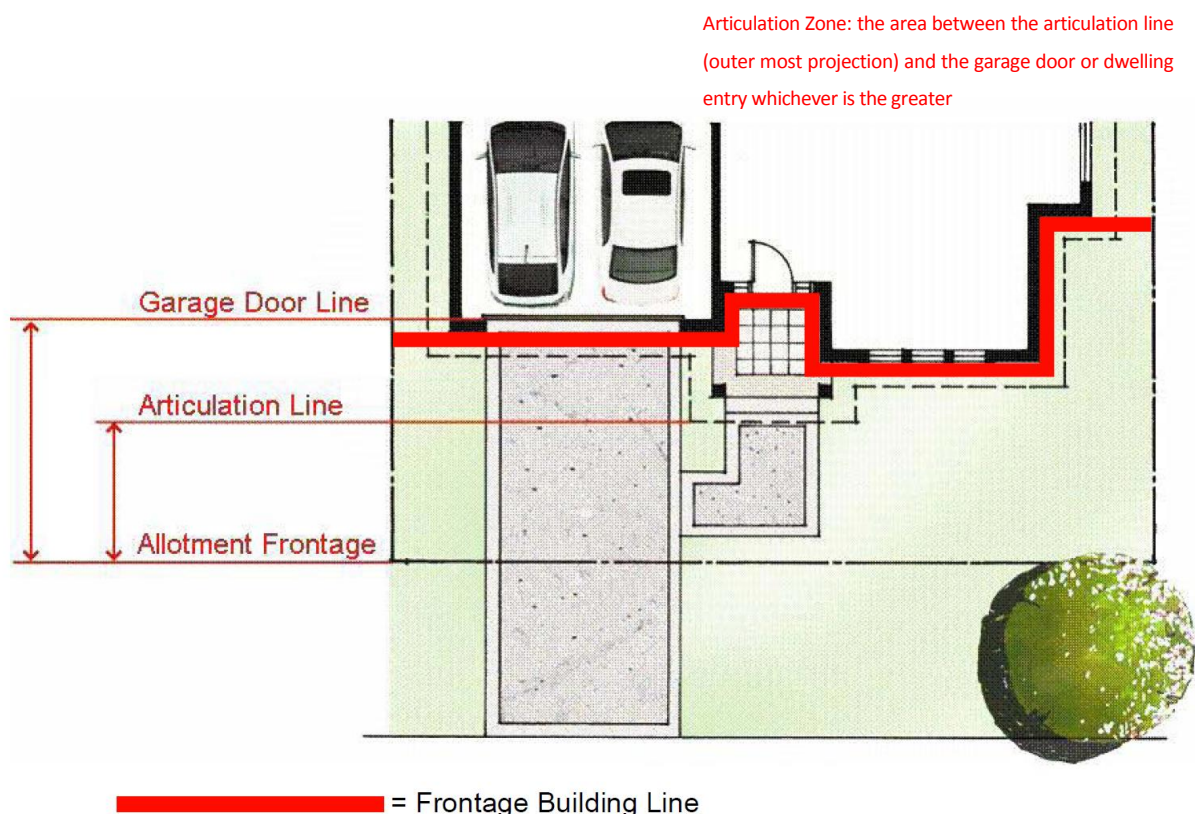


Figure 2.2.5.1 Frontage Setback Terminology

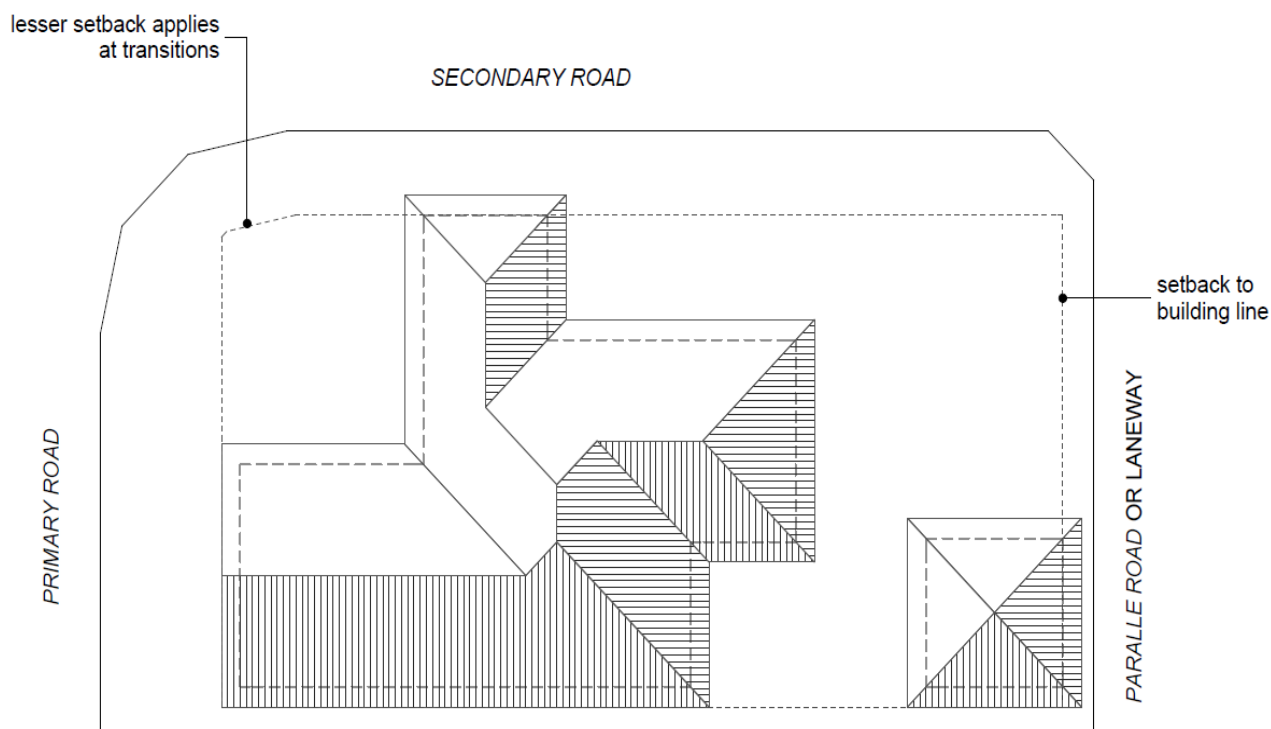
- (2) A *dwelling house* and *ancillary development* must have minimum *setbacks* from the boundary with a road that is not a *classified road* as specified in Table No. 2.2.5.1 below:

Table 2.2.5.1 Minimum setbacks for Dwelling house and Ancillary Development from boundary with road (not classified road)

Effective Lot Width	7.5m -10m	>10m – 15m (+ Dual Occupancy / Multi Dwelling Housing lots)	>15m	Measured to
Primary Road Frontage Articulation Zone	1m	2m	3m	<i>outermost projection</i>
Secondary Road Frontage Articulation Zone	0.5m	1.5m	2.5m	<i>outermost projection</i>
Primary Road frontage building line	2m	3m	5m	To wall
Secondary Road frontage building line	1.5m	2.5m	4.5m	To wall
Garage door line measured to either road frontage	0.6m behind the building line	4.5m for a double garage and 5.5m for a single garage	6m	To the wall containing the garage door

Note 1. the term “Effective Lot Width” is defined in the Glossary (Appendix A)

- (3) Corner lot setbacks must be in accordance with the setback controls above and for *dwelling house*, attached dwelling, *shop top housing*, *dual occupancy*, and multi dwelling housing, in the case of the transition between the primary and secondary frontage setbacks, the lesser setback applies (see Figure 2.2.5.2 below).

**Figure 2.2.5.2 Frontage setbacks for corner lots**

2.2.6 Side and rear boundary Setbacks for dwelling house with an effective Lot width = and > 15m, and certain Ancillary Development

- (1) A dwelling house and any carport, *garage*, balcony, deck, patio, pergola, terrace or verandah that is *attached* to the *dwelling* on a lot nominated for a *dwelling* house must have the following minimum setback from a side or rear boundary (subject to sub-clause 2.2.8):

Table 2.2.6.1 Side and rear boundary Setbacks for a dwelling house, with an effective Lot width = and >15m and certain Ancillary Development

Effective Lot Width	= to and >15m	Measured to
Ground Floor Setback to side boundaries	0.9 m	<i>To the wall</i>
First Floor Setback to side boundaries (including any parts over 4.5m high)	1.5m	<i>To the wall</i>
Second Floor Setback to side boundaries (including any parts over 8.5m high)	2m	<i>To the wall</i>
Rear Boundary Setback (ground and first floors,)	3m	<i>To the wall</i>
Rear Boundary Setback (second floors,)	4m	<i>To the wall</i>
Rear Articulation Zone (ground and first floors,)	2m	<i>To the wall</i>
Rear Articulation Zone (second floors,)	3m	<i>To the wall</i>

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note2. For *outbuildings*, refer to clause 2.2.7

Note 3. Projections permitted into side and rear *setback areas* include sun hoods, *architectural* fins or architraves, gutters, down pipes, flues, light fittings and electricity or gas meters, rainwater tanks and hot water units.

Note 4. Pergolas and other unroofed landscape elements may extend within the side and rear *setbacks* to minimum distances permitted by the *Building Code of Australia*.

Note 5. The outermost projection for a single storey can extend 450mm into the nominated setback and 900mm for the first floor.

2.2.7 Side and rear boundary Setbacks for Dwelling house with an effective Lot width < 15m, semi-detached dwelling, attached dwelling, Secondary Dwelling or dual occupancies, (detached) Outbuildings and certain (attached) Ancillary Development

- (1) A *dwelling house* and any carport, *garage*, balcony, deck, patio, pergola, terrace or verandah that is *attached* to the *dwelling*, or an *outbuilding* located behind the *frontage building line* on a lot designated for a Dwelling house with an effective Lot width < 15m, semi-detached dwelling, attached dwelling, secondary dwelling or dual occupancies must have the following minimum *setbacks* from a side or rear boundary (subject to clause 2.2.8):

Table 2.2.7.1 Side and Rear Boundary Setbacks for Semi Detached Dwelling, Shop top housing or Attached Dwelling, Dual Occupancy and Multi Dwelling Housing, Outbuildings (detached) and certain Ancillary (attached) Development

Effective Lot Width	7.5m - <10m	= to and >10m - <15m	= to and >15m	
Location criteria for- <i>built-to-boundary</i> walls	Building to up to 2 opposite boundaries that are shared with an adjoining allotment permitted up to 2 Storeys	Building to up to 2 <i>shared boundaries</i> permitted up to 1 Storey where separated in plan by no less than 2m from any <i>built-to-boundary</i> construction on an adjoining allotment	Building to 1 <i>shared boundary</i> , permitted up to 1 Storey where separated in plan by no less than 2m from any <i>built-to-boundary</i> construction on an adjoining allotment	
<i>Built-to-boundary wall</i> Setback	0.025m to 0.25m	0.025m to 0.25m	0.025m to 0.25m	
Maximum Extent of <i>built-to-boundary</i> walls up to 1 Storey	85% of the length of the <i>shared boundary</i> for a minimum length of 3m in any one section	The lesser of 20m or 55% of the length of the <i>shared boundary</i>	The lesser of 20m or 55% of the length of the <i>shared boundary</i>	
Maximum Extent of <i>built-to-boundary</i> walls up to 2 Storeys	No more than 85% of the length of the <i>shared boundary</i> and no more than 2m in plan and 1m in elevation variance to any <i>bbuilt-to-boundary</i> construction on the adjoining lot boundary	Not applicable	Not applicable	
Ground Floor Setback (to any <i>shared boundary</i> that is designated for <i>built-to-boundary</i> construction, but excluding <i>built-to-boundary</i> walls)	1.2m to wall	1.5m to wall and 1.2m to <i>outermost projection</i>	Not applicable	
Ground Floor Setback (to any <i>shared boundary</i> that is not designated for <i>built-to-boundary</i> construction)	1.2m-to to wall and 0.9m to the outer most projection	1.2m to-wall and 0.9m to the outer most projection	1.5m to wall and 1.2m to the outer most projection	
First Floor Setback (to <i>shared boundaries</i> , excluding Built-to-boundary walls but including parts over 4.5m high)	1.2m to wall and 0.9m to the outer most projection	1.5m to wall and 1.2m to the outer most projection	2m to wall and 1.2m to the outer most projection	
Second Floor Setback (to <i>shared boundaries</i> ,	2m to wall and 1.5m to the outer most projection	2m to wall and 1.5m to the outer most projection	2.5m to wall and 2.0m to the outer most projection	

Effective Lot Width	7.5m - <10m	= to and >10m – <15m	= to and >15m	
excluding Built-to-boundary walls if permitted, including all parts over 8.5m high)				
Rear Boundary Setback (ground and first floors,)	3m to wall	3.5m to wall	4m to wall	
Rear Boundary Setback (second floors,)	4m to wall	4.5m to wall	5m to wall	
Rear <i>articulation zone</i> Setback (ground and first floors,)	2m to <i>outermost projection</i>	2.5m to <i>outermost projection</i>	3m to <i>outermost projection</i>	
Rear <i>articulation zone</i> Setback (second floors,)	3m to <i>outermost projection</i>	3.5m to <i>outermost projection</i>	4m to <i>outermost projection</i>	

Note 1 the term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. Downpipes gutters and eaves must not extend over the boundary.

Note 3. Where setbacks are measured to the wall, eaves or other projections of 0.6m or less may project into the setback but must not encroach closer than 0.6m to any lot boundary.

Note 4. A corner lot may be considered to have two side boundaries and no rear boundaries.

Note 5. Gatehouse structures to Sandy Lane and Cobaki Parkway and adjoin a park are permitted within the rear setback and form part of the rear fence provided they have an area <4m² and not exceed 2.5m in height.

Note 6. Built to boundary walls are those nominated in the plan of development.

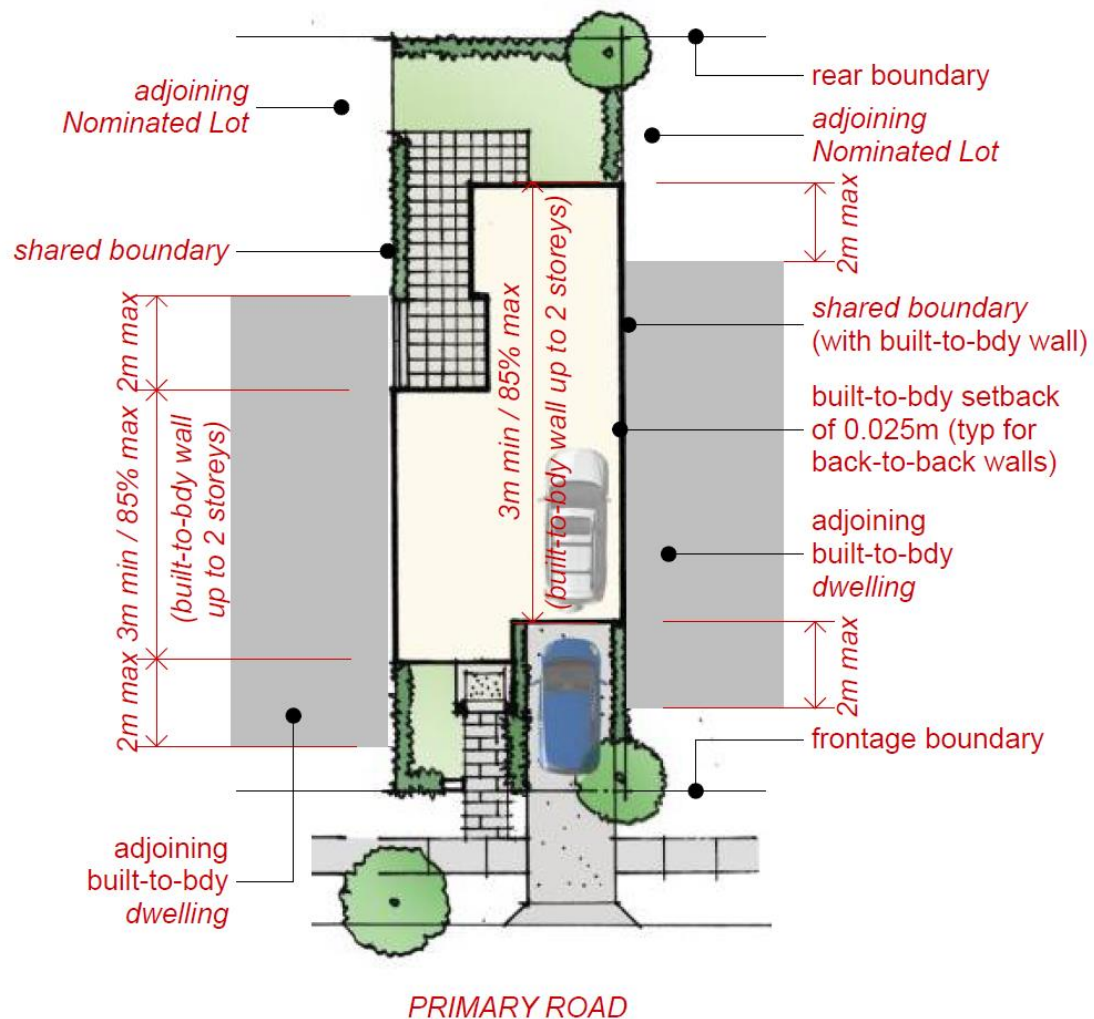


Figure 2.2.7.1 Explanatory Diagram for Side and Rear Boundary Setbacks for a Dwelling House (lot with effective width <15m), Attached Dwelling, Semi Detached Dwelling, Secondary Dwelling and Dual Occupancies, (detached) Outbuildings and certain (attached) Ancillary Development.

2.2.8 Exceptions to all side and rear Setbacks

- (1) Despite any other clause in Subdivision 2 *building heights and setbacks*:
 - (a) a *dwelling house*, *dual occupancy*, *multi dwelling housing* or an *outbuilding* must have a *setback* of at least 3m from a boundary with a public reserve, and
 - (b) *side setbacks* do not apply to allowable encroachments permitted under clause 3.7.1.7 of Volume Two of the *Building Code of Australia*, unless otherwise noted, and
 - (c) *rear setbacks* do not apply to fascias, gutters and downpipes.

Note 1. The allowable encroachments permitted under clause 3.7.1.7 Volume Two of the *Building Code of Australia* include fascias, gutters, downpipes, rainwater tanks, chimneys, flues, domestic fuel tanks, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds, unroofed terraces, landings, steps and certain ramps.

2.2.9 Calculating all Setbacks

- (1) For the purpose of calculating a side or rear *setback* on a sloping lot, the maximum *building height* of a *dwelling* within 3m of the relevant boundary must be used.
- (2) *setbacks* must be calculated using the shortest perpendicular distance from the *building element* to the relevant boundary.
- (3) For the purpose of calculating the *setback* from a road frontage, the following elements are not included:
 - (a) a driveway, pathway or paving,
 - (b) a fence or screen,
 - (c) a retaining wall,
 - (d) a stair or ramp that is not more than 1m above the *ground level (existing)*.

2.2.10 Permitted Building Elements in the Articulation Zone

- (1) *Building elements* are the only structures permitted in any *articulation zone*:
Note 1: The term *building element* is defined in the Glossary
- (2) A *building element* in any *articulation zone* must not extend above the eave gutter line, other than a pitched roof or parapet wall forming an entry feature or portico.
- (3) The maximum area of all *building elements* within any *articulation zone*, other than an awning or other feature over a window, or a sun shading feature must not be more than 25% of the area of any *articulation zone*, measured through the horizontal plane of the elements.

Subdivision 3 Energy Efficiency

2.2.11 Compliance with current energy certification standards

Any new *dwelling* or alterations and additions to a *dwelling* with an estimated cost of \$50,000 or more are to comply with BASIX or the current legal certification standard.

Subdivision 4 Landscaping

2.2.12 Landscaped Area

- (1) A lot on which specified development is carried out must have the following minimum *landscaped area*, as a percentage of the area of the lot.

Table 2.2.12.1 Minimum Landscaped Area

Effective Lot Width	7.5m -10m	>10m – 15m	>15m
Minimum Landscape Area for a <i>dwelling house</i>	5%**	10%**	20%**
Minimum Landscape Area For dual occupancy and multi dwelling housing	20%** (of lot area before strata subdivision) including a minimum of 5% being <i>deep planting areas</i> .		

**May include other required areas such as *private open space* and all *setbacks* comprising permeable surfaces.

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. The terms *landscaped area* and *Deep Planting Area* are defined in the Glossary

Note 3. The *landscaped area* means any part of a lot, at ground level, that is permeable and consists of soft landscaping, pebbles, turf or planted areas and the like. It does not include driveways, parking areas, hard paved drying yards or other service areas, swimming pools, tennis courts, undercroft areas, roofed areas (excluding eaves less than 0.6m to fascia board), *outdoor rooms*, balconies,

rooftop gardens, terraces, decks, verandas and the like.

Note 4. Landscaped open space may include other required areas such as *private open space* and/or *setbacks*

- (2) The *landscaped area* must have a minimum dimension of at least 0.75m.
- (3) A landscape intent shall be prepared for any allotment less than 400m or where more than 1 dwelling is proposed on an allotment. The landscaping shall include predominantly endemic species, although non-endemic and exotic species may be utilised for accent/ feature plantings; and
- (4) Plantings in the streetscape / in front of the buildings line shall be generally endemic and generally in accordance with the species utilized in the Landscape Master Plan. The front yard plantings shall include a minimum of one (1) 100L tree or two (2) 200L palm which is planted a minimum of 3m from any side boundary or the building.

2.2.13 Private Open Space (POS)

- (1) Each dwelling house, attached dwelling, semi-detached dwelling, secondary dwelling or dual occupancy, must have the following minimum *private open space*:

Table 2.2.13.1 Minimum Private Open Space

Effective Lot Width	7.5m -10m	>10m – 15m	>15m	Dual Occupancy or Multi Dwelling Housing
Private Open space (POS) at ground level	Min. 15m ² with a min. dimension of 3m and provided with adequate privacy or	Min. 20m ² with a min. dimension of 3m and provided with adequate privacy or	25m ² with a min. dimension of 3m and provided with adequate privacy	25m ² per <i>dwelling</i> with a min. dimension of 3m and provided with adequate privacy
Private Open Space (POS) at first floor level for <i>first floor living solutions</i>	Min. 6m ² if provided as a semi private balcony or rooftop with a min. dimension of 2.1m	Min. 12m ² if provided as a semi private balcony or rooftop with a min. dimension of 3m	Not applicable	9m ² per <i>dwelling</i> if provided as a semi private balcony or rooftop with a min. dimension of 3m

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

- (2) *Private open space* must be sited on a lot in accordance with a *plan of development* or with the *private open space* location principles illustrated in Figure 2.2.13.1.

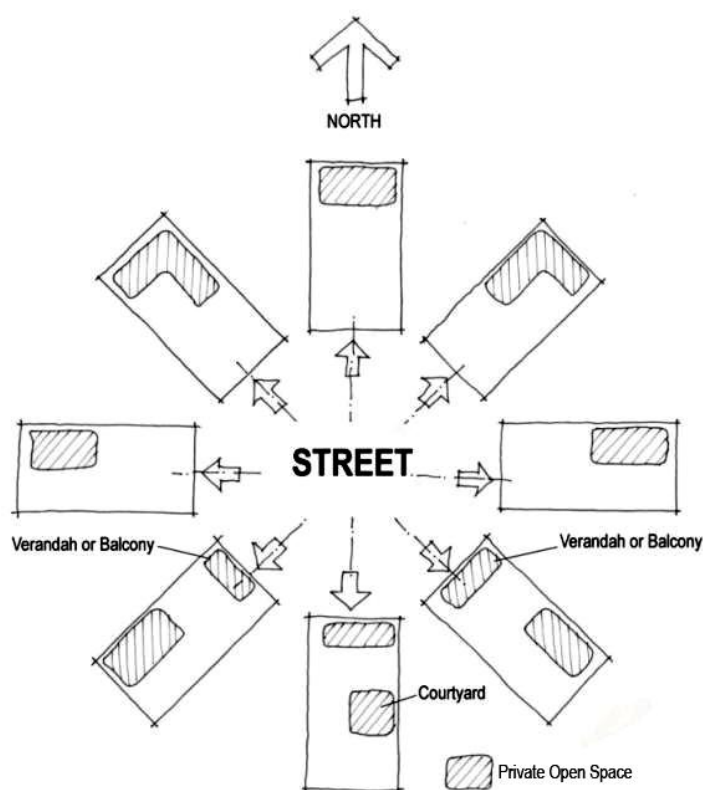


Figure 2.2.13.1 Private Open Space Location Principles

Subdivision 5 Car parking and access

2.2.14 Car parking requirements (1) Off-street car parking spaces must be provided as per the rates specified in **Table 2.2.14.1** or as nominated on a *plan of development*, whichever is the lesser.

Table 2.2.14.1 Car Parking Requirements

Dwelling Type	Car Parking Required
Dwelling House with an effective lot width = to and >10m	Minimum 2 spaces (1 covered)
Dwelling House with an effective lot width <10m	Minimum 1 space (covered)
Semi-detached Dwelling, Attached Dwelling	Minimum 2 spaces (1 covered)
Multi Dwelling housing and Residential Flat Building and Shop Top Housing	Minimum 1 space per one-bedroom <i>dwelling</i> , 1.5 spaces per two-bedroom <i>dwelling</i> , 2 spaces per three-bedroom <i>dwelling</i> (with 1 space per <i>dwelling</i> covered). Plus visitor parking (on street) at the rate of 0.25 spaces per <i>dwelling</i>
Secondary dwelling	No additional car parking required Note 1. <i>Secondary dwelling</i> development must not reduce any car parking provided for the principal <i>dwelling</i> .

2.2.15 Garages, carports and car parking spaces – location, siting and design

- (1) A *garage*, carport or car parking space must:
- (a) be located on the lot in accordance with a *plan of development*, or, otherwise, in accordance with the *garage* location principles as per Figure No. 2.2.15.1; and

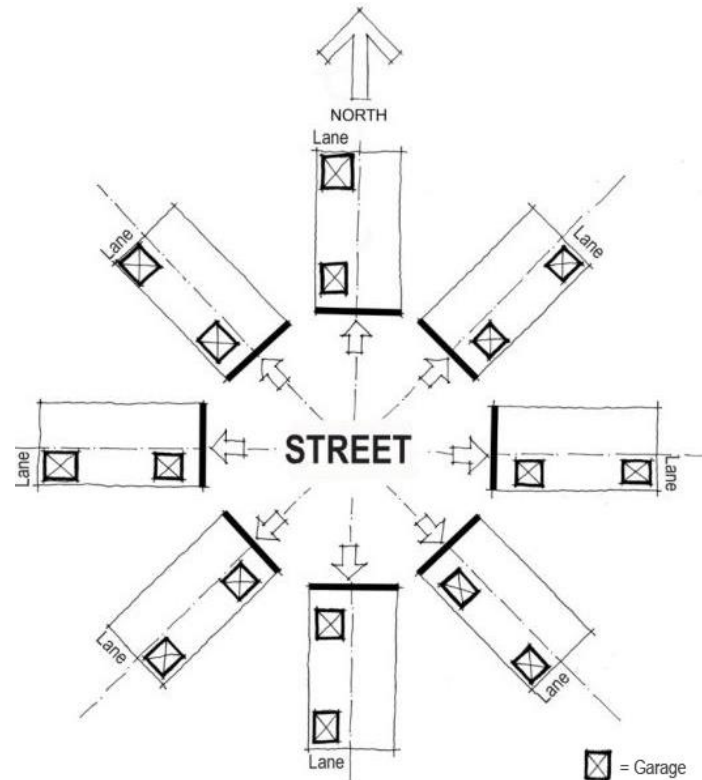


Figure 2.2.15.1 Garage Location Principles

- (b) *Garages* and carports must have minimum unobstructed dimensions which comply with *Australian Standard AS2890.1:2004 Parking facilities - Off Street Car Parking*; and
- (c) where the *dwelling* has a *setback* from a road frontage of 4.5m or more, be located at least 1m behind the *building line*; and
- (d) where the *dwelling* has a *setback* from a road frontage of less than 4.5m, be located at least 0.6m behind the *building line*; and
- (e) where an additional single *garage* is provided (forming a triple *garage*), be at least 0.6m behind the *garage door line* of the double *garage*; and
- (f) tandem car parking spaces (nose to tail) may be provided only where both spaces are allocated to a *single dwelling*.
- (2) The total width of all *garage* door opening(s) on a *garage* must:
- (a) be not more than 6m, and
- (b) not more than 50% of the width of the lot width measured at the *garage door line*.
- except where a *garage* fronts a *parallel road* or laneway,
- (3) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.
- (4) *Garages*, carports and vehicle access doors on *garages* or carports must be unobtrusive through the use of materials, colours, overhangs and/ or eaves.

2.2.16 Access

- (1) Where off-street car parking is provided under **Subsections 2.2.14 or 2.2.15** it must have a driveway to a public road.
- (2) Where the driveway crossover location is not shown on a *plan of development* the location of the driveway must be sited with regard to *dwelling* design, orientation, street gully pits, tree bays and the maximisation of available on-street car parking, as well as the *garage* location principles illustrated in Figure 2.2.15.1. Where the driveway location is shown on a *plan of development*, the driveway must be constructed in that location.
- (3) Driveways must comply with the following criteria:
 - (a) the maximum width of a driveway at the property boundary is 4.5m, except on narrow laneways where a wider driveway width may be provided to comply with Australian Standard AS 2890.1—2004 *Parking facilities—Off-street car parking*, and
 - (b) a driveway on a lot must be determined at the *plan of development* stage and be constructed in accordance with Australian Standard AS 2890.1—2004 *Parking facilities—Off-street car parking*.
 - (c) a driveway crossover must be approved by application to *Council* under Section 138 of the *Roads Act 1993* to undertake work within a road reserve.

Note 1. Subsections 2.1.25 and 2.1.26 apply to the construction or installation of a driveway as *exempt development*.

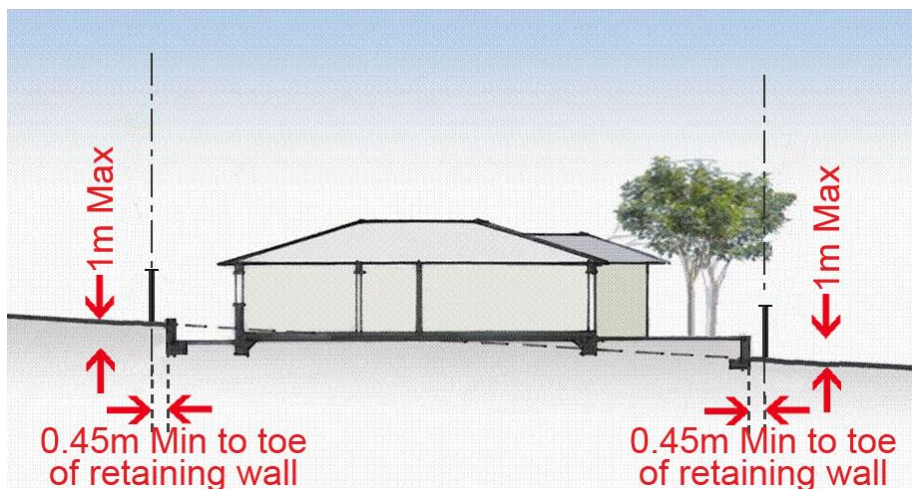
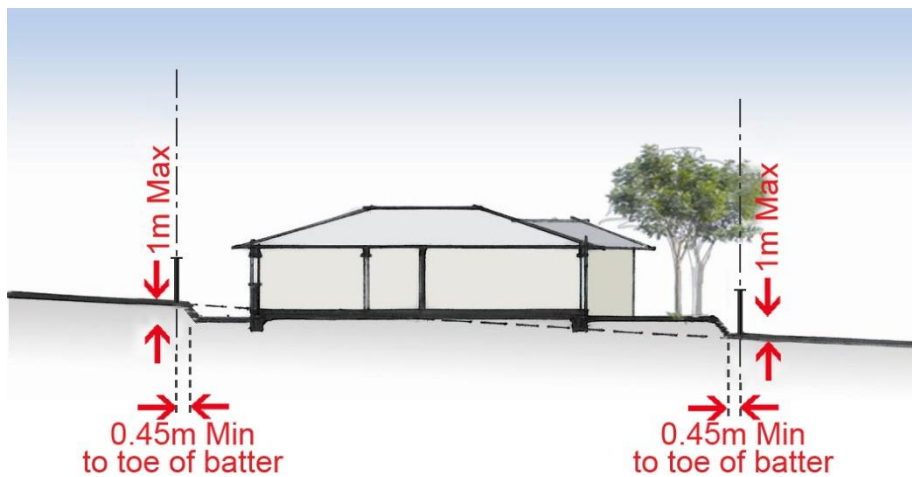
Subdivision 5 Earthworks, retaining walls and drainage

2.2.17 Excavation of sloping sites

- (1) Excavation associated with the erection of, or alterations or additions to, a *dwelling house*, *dual occupancy*, multi dwelling housing or *ancillary development* (other than a swimming pool) must:
 - (a) be not more than 1m below *ground level (existing)*, unless retained and backfilled to the wall of the *dwelling*, and
 - (b) be retained by a wall constructed and supervised in accordance with a practising structural engineer's design and a certificate of structural adequacy provided prior to occupation if it requires a retaining wall greater than 1m in *height*, and
 - (c) cause overland flow affected by site works to be intercepted to prevent damage and nuisance to adjoining properties and such provisions must be indicated on plans submitted for approval, and
 - (d) be located no less than 0.45m from the lot boundary, unless constructed in association with a permitted built-to-boundary wall, or where a side *setback* of 0.9m (or less) to an *outermost projection* applies, in which case the excavation must not be greater than 0.8m below *ground level (existing)*.
 - (e) not be made for a contiguous slab on ground type construction if the lot has a slope of greater than 10%, in which case only excavations required for a suspended slab and/or an enclosed, elevated slab type of construction are permitted.
- (2) Excavation associated with the erection of, or alterations or additions to, a swimming pool must be not more than the depth required for the pool structure (also refer **Section 2.2.23**)

2.2.18 Fill of sloping sites

- (1) Fill associated with the erection of, or alteration or additions to, a *dwelling house, dual occupancy, multi dwelling housing or ancillary development* must be:
 - (a) if in excess of 1m, contained wholly within the external walls of the *dwelling or ancillary development*, or
 - (b) exposed fill constructed to a maximum *height* of 1m above *ground level (existing)* using an embankment or a retaining wall if the retaining wall or toe of the embankment is set back greater than 0.45m from the boundary, or
 - (c) exposed fill constructed to a maximum *height* of 0.8m above *ground level (existing)* using a retaining wall where the fill is set back less than 0.45m from the boundary and in accordance with 2.2.19 (f).
- (2) All fill on a lot that is constructed using an unprotected embankment shall be battered at a gradient no steeper than 1m vertical to 1.5m horizontal.



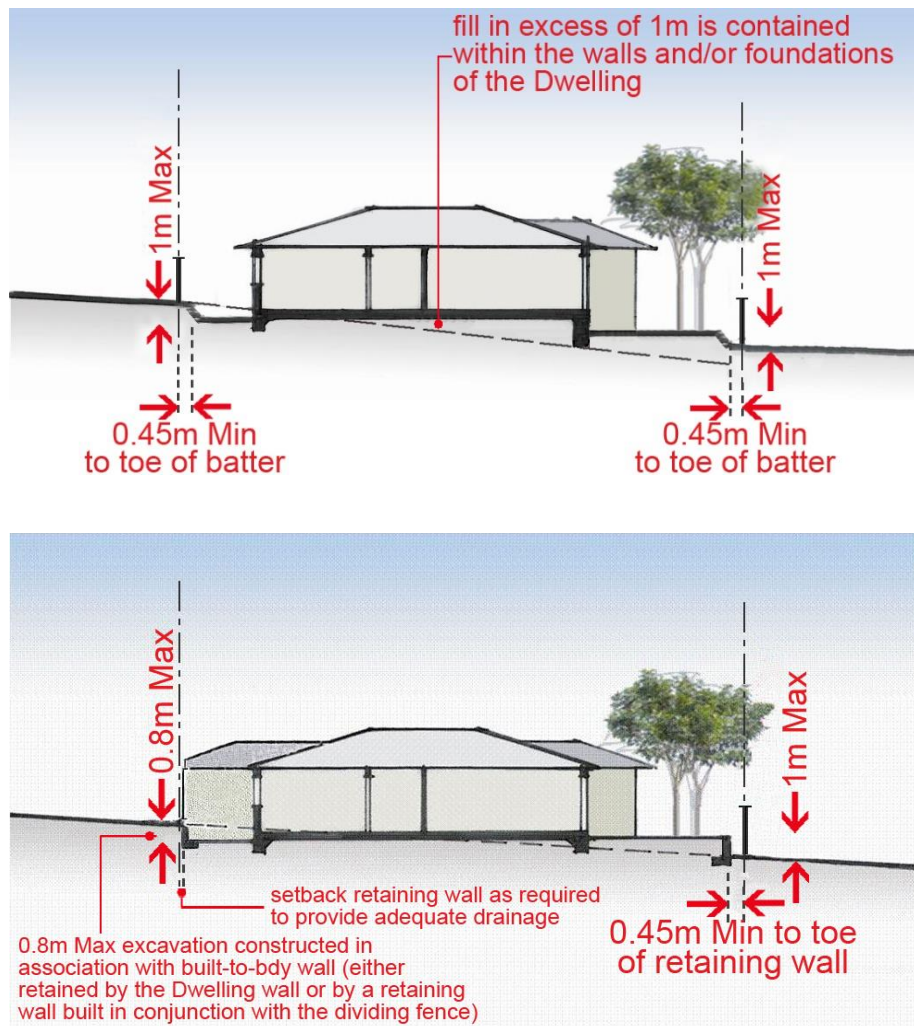


Figure 2.2.18.1 Retaining Walls and unprotected embankments

2.2.19 Dimensions and construction of retaining walls

- (1) All retaining walls that cannot be carried out as *exempt development* under **Schedule 1 exempt development** and not incorporated into the wall of a *dwelling* or *outbuilding* permissible by this Code must:
 - (a) not require cut or fill more than 1m below or above *ground level (existing)*, and
 - (b) if retaining more than 0.8m of cut and fill from *ground level (existing)*, be located at least 0.45m from any lot boundary, and
 - (c) if less than 0.45m from any boundary, be not higher than 0.8m in *height*, and
 - (d) in all other situations, not be higher than 1.2m in *height*, and
 - (e) be located at least 6m from a waterbody (existing), and
 - (f) if constructed on the lot boundary in association with a built-to-boundary wall of a *zero-lot dwelling*, be constructed with shared boundary fence posts integrated with its construction, and
 - (g) have relevant construction details submitted with any application for a retaining wall.
- (2) A retaining wall must:
 - (a) have adequate drainage lines behind it, and
 - (b) not redirect the flow of surface water onto an adjoining property, and
 - (c) cause surface water to be disposed of without causing a nuisance to adjoining owners.

- (3) A retaining wall must be constructed of:
- (a) rendered and painted concrete block, or
 - (b) proprietary terraced blocks with factory integrated colour, or
 - (c) face masonry or stone, or
 - (d) boulders, or
 - (e) proprietary concrete planks with factory integrated colour, or
 - (f) decorative faux rockwork.

2.2.20 Run-off and erosion controls

- (1) Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- (a) diverting uncontaminated run-off around cleared, disturbed or stockpiled areas, and
 - (b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and
 - (c) preventing tracking of sediment by vehicles onto roads, and
 - (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

2.2.21 Drainage

- (1) All stormwater drainage servicing the erection of, or alterations or additions to, a *dwelling house*, dual occupancy or multi dwelling housing or *ancillary development* must be conveyed under gravity, except for *basement* areas which may be conveyed by a pumped system, to:
- (a) a public drainage system, or
 - (b) an inter-allotment drainage system, or
 - (c) an on-site disposal system.
- (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must:
- (a) if an approval is required under section 68 of the [*Local Government Act 1993*](#), be approved under that Act, or
 - (b) if an approval is not required under section 68 of the [*Local Government Act 1993*](#), comply with any requirements for the disposal of stormwater drainage contained in a *plan of development* applicable to the land.

Subdivision 6 Ancillary development

2.2.22 Demolition or removal of Dwellings and Ancillary development

- (1) An existing *dwelling house*, dual occupancy or *multi dwelling housing* or *ancillary development* that is to be demolished or relocated must:
- (a) be disconnected from any essential service in accordance with the requirements of the relevant authority, and
 - (b) not be relocated on the same lot or to a different lot, except in accordance with the development standards in this division.

2.2.23 Swimming pools

- (1) *Ancillary development* comprising a swimming pool or spa for private use must be located on a lot:
 - (a) behind the *frontage building line* from a road frontage, or
 - (b) in the position nominated by the *plan of development* as *private open space*.
- (2) The swimming pool water line must have a *setback* from a side or rear boundary of not less than:
 - (a) 1.5m, if it extends above the *ground level (existing)* by more than 0.3m or is not adjacent to a solid fence of a *height* of 1.5m minimum as measured from the pool coping, or
 - (b) otherwise 0.3m, if accompanied by an engineer's design that addresses any existing structures within 2m of the swimming pool.
- (3) Decking (including cantilevered concrete decking) around a swimming pool must not be more than 0.6m above *ground level (existing)* where located within 0.9m of any boundary, or otherwise not more than 1.2m above *ground level (existing)*.
- (4) Coping around a swimming pool must not be more than:
 - (a) 1.2m above *ground level (existing)*, or
 - (b) 0.3m wide if the coping is more than 0.6m above *ground level (existing)*.
- (5) A spa constitutes a pool of less than 6m² in plan area with no *attached* decking and must not be more than 1.2m above *ground level (finished)*.
- (6) The pool must not be used for commercial purposes.
- (7) The areas surrounding the pool structure must be graded to divert surface and splash water to a surface water collection point connected to a stormwater drainage system and clear of the proposed structures and adjoining premises.
- (8) Water from a swimming pool must be discharged in accordance with an approval under the *Local Government Act 1993* if the lot is not connected to a sewer main.

Note 1. A child-resistant barrier must be constructed or installed in accordance with the requirements of the [Swimming Pools Act 1992](#).

2.2.24 Fences and Retaining Walls

- (1) A fence and any associated retaining wall located forward of the *frontage building line* must:
 - (a) be confirmed by a *DRP pre-approval certificate*, and
 - (b) not redirect the overland flow of surface water onto adjoining properties, and
 - (c) If the land on which a fence or retaining wall is to be erected is bush fire prone land, the fence or retaining wall must be constructed from non-combustible materials, and
 - (d) if not parallel to a road or public land frontage and located less than 0.45m from a side or rear boundary, be constructed at *ground level (existing)*, while also complying with the *height* requirements in the table in **Subsection 2.2.24 (2)** below, and
 - (e) if parallel to a road or public land frontage, be constructed not more than 0.6m above or below *ground level (existing)*, and
 - (f) in relation to any brick or other solid portion of the fence above 0.6m above *ground level (finished)*, be not more than 0.35m wide, and
 - (g) comply with Table No. 2.2.24.1 below (see Figures 2.2.24.1 and 2.2.24.2).

Table 2.2.24.1 Fence Controls

Fence Control	Setback from the road frontage boundary	Minimum and maximum heights above Ground Level (existing)*	Type/s of fence permitted	Extent permitted to frontage boundary	Other requirements or notes
Fencing to a Primary Road frontage <u>not</u> providing privacy for a private open space and up to the building line	0m	0.6m minimum and 1.5m maximum	Solid masonry up to 0.6m, a combination of solid masonry (pillars) and transparent, or transparent or Translucent.	A maximum of 60% of the total length of the frontage boundary. (excluding any transparent or translucent gates)	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence for 50% of the fence.
Fencing to a primary or Secondary Road frontage providing privacy for a private open space	0m	1.5m	a combination of 30% maximum solid masonry and transparent, or transparent or translucent	100%	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence for 50% of the fence.
Fencing to a Secondary Road frontage of a corner lot <u>not</u> providing privacy for a private open space	A minimum of 0.5m	1.5m	a combination of 30% maximum solid masonry and transparent, transparent or translucent	100%	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence.
Fencing to open space	0m	1.5m	a combination of 30% maximum solid masonry and transparent, transparent or translucent	100%	
Fencing to Cobaki Parkway and or Sandy Creek Lane	0m	1.8m [#]	Solid masonry, or a combination of solid masonry and/or timber capped to meet acoustic requirements	100%(including any gates/gatehouses)	

*

*An increase in height of 0.3m above Ground Level may be permitted if the fence is solid masonry and incorporates the retaining of fill (maximum 1.2m).[#] Maximum height shall be in accordance with an approved acoustic report.

Note 1: 100% Light weight Pool type fencing is not permitted unless in combination with masonry pillars and base. Use of shade cloth or similar attached to fences is not permitted.

Note 2: Sight triangles must be maintained to ensure pedestrians and cyclists can see vehicles exiting driveways and vice versa. See Tweed Shire Council Driveway Access to Property- Design Specification Version 1.

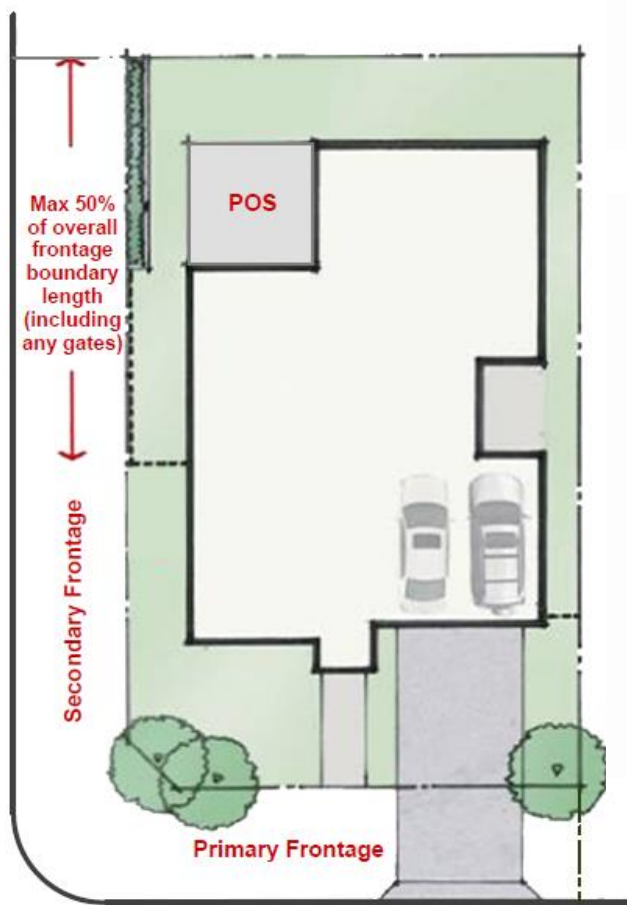


Figure 2.2.24.1 Solid fencing extending to part of a boundary

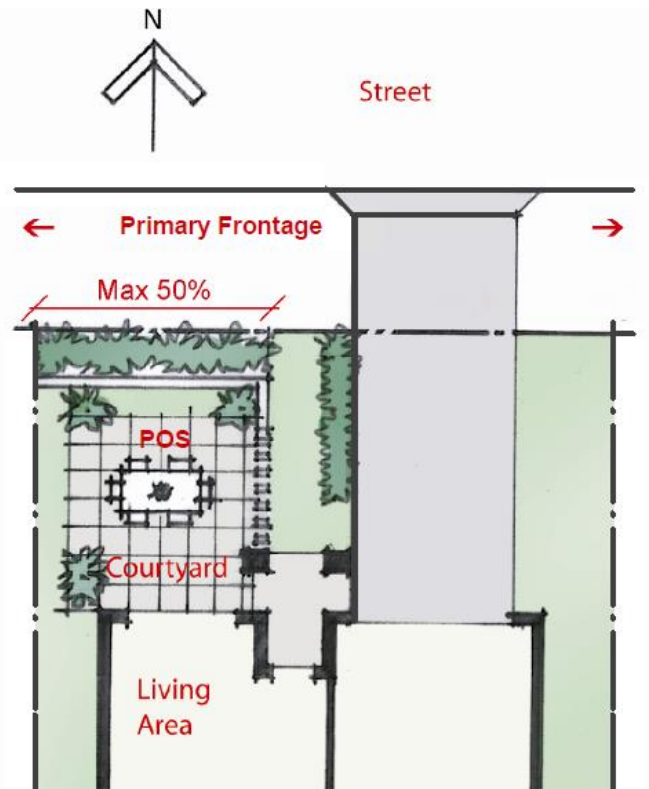


Figure 2.2.24.2 Limited fencing permitted when living spaces face north to street

- (2) Fencing behind the *frontage building line* on a boundary shared with another residential lot is referred to as *shared boundary fencing* and shall be:
- (a) Solid fencing, and
 - (b) constructed with a raked top profile following the profile of the *ground level (existing)*, and
 - (c) a maximum *height* of 1.8 metres including the *height* of any retaining walls, as measured from *ground level (existing)*, with a tolerance of $\pm 0.3\text{m}$ in the case of a sloping lot, and
 - (d) leave a gap not greater than 0.050m at the bottom between the fence materials (other than supporting posts) and the *ground level (finished)* and
 - (e) have footings that are located below the ground line (existing), and
 - (f) not be an electrified fence or use barbed wire, and
 - (g) not redirect the flow of surface water onto any adjoining property.

- (3) Fence Types, Materials and Colours are described as follows:
- (a) **Solid** fencing/ retaining, constructed of materials specified in the *design guidelines* for solid fences.
 - (b) **Transparent** fencing, constructed of materials specified in the *design guidelines* for transparent fences and comprising a maximum of 15% solid materials.
 - (c) **Translucent** fencing, constructed of materials specified in the *design guidelines* for translucent fences and comprising a minimum of 15% openings.



Figure 2.2.24.3 Examples of Transparent Fencing



Figure 2.2.24.4 Examples of Translucent Fencing on a Secondary Boundary of a Corner Site

- (4) A fence or the fence and associated retaining wall on a sloping lot may be stepped, provided the *height* of each step is not more than 0.3m.
- (5) Any gate associated with or incorporated in the fencing must match the fencing in *height*, colour and material, except in the case of Solid fencing where the gate must be low reflective, factory pre-coloured metal in a colour *matching* the solid fence, or dressed and stained timber battens, or safety glass, or stainless steel. Any gatehouse associated with the rear fence to Cobaki Parkway, Sandy Lane or a rear /side boundary to open space may not be more than 2.5m in height and have a roof pitch which is similar to that of the dwelling and colours of a similar hue to that of the fence. The gatehouse must not reduce any noise articulation provided by the fence.
- (6) A fence must not incorporate barbed wire, broken glass or any other sharp element.
- (7) Where it is a solid fence type, a fence facing a road or other public land, must be treated with permanent, anti-graffiti coating.

DIVISION 2 COMMERCIAL AND INDUSTRIAL CODE COMPLYING DEVELOPMENT CODE

Subdivision 1 Building alterations (internal)

2.2.25 Specified Complying Development

An internal alteration to a building that is used as bulky goods premises, *commercial premises*, premises for light industry or a warehouse or distribution centre is development specified for this *Code*.

2.2.26 Development standards—general

- (1) The standards specified for that development are that:
 - (a) the current use of the premises must be a lawful use, and
 - (b) the current use of the premises must not be an existing use within the meaning of section 106 of the Act, and
 - (c) the alteration must not result in an increase in the *gross floor area* of any building within which it is carried out, and
 - (d) the alteration must not involve the conversion of any area that is excluded from the measurement of *gross floor area* of the building (such as a *basement*, plant room, car parking space, loading space or void), and
 - (e) if the alteration involves a loading dock, the alteration must not:
 - (i) reduce the number or capacity of the trucks accommodated, or
 - (ii) reduce the area for goods handling, or
 - (iii) reduce the area for waste handling (including any recycling area), or
 - (iv) reduce the manoeuvring area of the loading dock or access driveway, and
 - (f) the alteration must not relate to the cooking of food at the premises by barbecue or charcoal methods, and
 - (g) if the alteration involves *food and drink premises*, the alteration must be carried out in accordance with AS 4674—2004, *Design, construction and fit out of food premises*, and
 - (h) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Note 1. If the alteration involves premises that are a **food business** within the meaning of the *Food Act 2003*, the premises must comply with the requirements under that Act.

Note 2. If the alteration involves premises at which a **skin penetration procedure** is carried out within the meaning of the *Public Health Act 1991*, the premises must comply with the requirements under that Act, including the *Guidelines on Skin Penetration (April 2008)*, published by the Department of Health.

2.2.27 Development standards—Building Code of Australia matters

- (1) The following standards are also specified for that development:
 - (a) if the building that is being altered is subject to an *alternative solution* relating to a fire safety requirement, the alteration must be consistent with that *alternative solution*.
 - (b) if the alteration involves an area of more than 500m² of bulky goods premises or *commercial premises*, or an area of more than 1,000m² of premises used for light industry or a warehouse or distribution centre, that area must:

- (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the Building Code of Australia, and
 - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the Building Code of Australia, and
 - (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the Building Code of Australia,
- (c) if the building is a mixed use development that also contains a *class 2, 3 or 4* portion, the altered area must be separated from the *class 2, 3 or 4* portion by *building elements* that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the Building Code of Australia.

Subdivision 2 Change of use of premises

2.2.28 Specified Complying Development

- (1) A change from a current use to a new use that is a change from:
- (a) a bulky goods premises to another bulky goods premises, or
 - (b) a type of *commercial premises* to another type of *commercial premises*, or
 - (c) a light industry to another light industry, or
 - (d) a warehouse or distribution centre to another warehouse or distribution centre, or
 - (e) a light industry to a warehouse or distribution centre, or
 - (f) a warehouse or distribution centre to a light industry, or
 - (g) a light industry to an ancillary office, or
 - (h) a warehouse or distribution centre to an ancillary office, is development that is specified for this *Code*.

Note 1. See the entry for change of use of premises in the **General exempt development code**.

2.2.29 Development standards—general

- (1) The standards specified for that development are that:
- (a) the current use must be a lawful use, and
 - (b) the current use must not be an existing use within the meaning of section 106 of *the act*, and
 - (c) the new use must not be carried out at premises that are a manufactured home, moveable *dwelling* or associated structure, temporary structure, tent, swimming pool, ship or vessel, and
 - (d) the new use must not be any of the following:
 - (i) a funeral chapel, or
 - (ii) a funeral home, or
 - (iii) *retail premises* where firearms within the meaning of the Firearms Act 1996 are sold, or
 - (iv) landscape and garden supplies, or
 - (v) a market, or
 - (vi) a *pub*, or
 - (vii) restricted premises, or

- (viii) a roadside stall, or
 - (ix) sex services premises, or
 - (x) timber and building supplies, or
 - (xi) vehicle sales or hire premises, and
- (e) the new use must not result in a change of building use under the *Building Code of Australia* that is any of the following:
 - (i) from a *class* 5 or 6 building to a *class* 2, 3, 4, 7a, 7b, 8, 9a, 9b or 9c building, or
 - (ii) from a *class* 7b or 8 building to a *class* 2, 3, 4, 6, 7a, 9a, 9b or 9c building, and
- (f) a new use that is an ancillary office within premises that are a warehouse or distribution centre or are used for light industry must not occupy more than:
 - (i) the maximum amount of *gross floor area* permitted for such an office in such a building under an environmental planning instrument applying to the land, or
 - (ii) 20% of the *gross floor area* of the building in any other case, and
- (g) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a *complying development certificate*) that applies to the premises relating to hours of operation, car parking and landscaping, and
- (h) if there is no existing condition relating to hours of operation, the premises *class* must not be operated outside the following hours:
- (i) if the new use is as bulky goods premises or *commercial premises*—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,
 - (i) in any other case—7.00 am to 7.00 pm Monday to Saturday and the new use must not be carried out at any time on a Sunday or a public holiday, and
 - (ii) if there is no existing condition relating to car parking, the new use must comply with any relevant requirements contained in an environmental planning instrument or a development control plan applying to the land relating to car parking.

Note 1. The construction or installation of a driveway or *hard stand space* in relation to bulky goods premises, *commercial premises*, premises used for light industry or a warehouse or distribution centre is not *exempt development* or *complying development* under this *Code*.

2.2.30 Development standards—Building Code of Australia matters

- (1) The following standards are also specified for that development:
 - (a) if the change of use involves an area of more than 500m² of bulky goods premises or *commercial premises*, or an area of more than 1,000m² of premises used for light industry or a warehouse or distribution centre, that area must:
 - (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and
 - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and

- (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the Building Code of Australia,
- (b) if the building is a mixed use development that also contains a *class 2, 3 or 4* portion, the area involved in the change of use must be separated from the *class 2, 3 or 4* portion by *building elements* that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the Building Code of Australia.

Note 1. Pursuant to the requirement under the Environmental Planning and Assessment Act 1979 that a building must be suitable for occupation and use in accordance with its classification under the Building Code of Australia, a change of use may require building work to be carried out despite such work not being included in an application for a *complying development certificate*.

Subdivision 3 Mechanical ventilation systems

2.2.31 Specified Complying Development

The construction, installation or alteration of a mechanical ventilation system on a building that is used as bulky goods premises, *commercial premises*, premises for light industry or a warehouse or distribution centre is development specified for this *Code* if it is not carried out on, or in relation to, or at premises located on bush fire prone land.

2.2.32 Development standards

- (1) The standards specified for that development are that:
 - (a) the development must be located at least 3.5m behind the *building line* from any lot boundary, and
 - (b) the development must be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary, and
 - (c) the development must be located not more than 1m above the ridge of a pitched roof or 3m above a flat roof, and
 - (d) the development must not relate to the cooking of food at the premises by barbecue or charcoal methods, and
 - (e) any demolition necessary must be carried out in accordance with AS 2601—2001, Demolition of structures.

Note 1. If the mechanical ventilation system is a **regulated system** in **regulated premises** within the meaning of the Public Health Act 1991, the system must comply with the requirements of that Act, including AS/NZS 3666.1:2002, Air-handling and water systems of buildings— Microbial control—Design, installation and commissioning.

Subdivision 4 Shopfront and awning alterations

2.2.33 Specified Complying Development

An external alteration to, or the repair or replacement of, an existing shopfront or awning on a building that is used as bulky goods premises or *commercial premises* is development specified for this *Code*.

2.2.34 Development standards

- (1) The standards specified for that development are that:
 - (a) the development must not result in an increase in the *gross floor area* of the building, and

- (b) the development must not reduce the area of the window or other clear glass of the shopfront, and
- (c) the development must not reduce the level of transparency of the shopfront, such as by using obscure glazing, and
- (d) the development must not reduce the existing level of access to the building for people with a disability, and
- (e) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Note. A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

Subdivision 5 Skylights and roof windows

2.2.35 Specified Complying Development

The construction or installation of a skylight or roof window on a building that is used as bulky goods premises, *commercial premises*, premises for light industry or a warehouse or distribution centre is development specified for this *Code*, other than at premises located on bush fire prone land.

2.2.36 Development standards

- (1) The standard specified for that development is that:
 - (a) the development be constructed or installed so that any opening created is adequately weather proofed, and
 - (b) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Schedule 3

DIVISION 1 CONDITIONS APPLYING TO COMPLYING DEVELOPMENT CERTIFICATE UNDER THE RESIDENTIAL COMPLYING DEVELOPMENT CODE

Note. *complying development* must comply with the requirements of *the act*, the [Environmental Planning and Assessment Regulation 2000](#) and the conditions listed in this Part.

Note. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an *accredited certifier* must, under section 94EC of *the act*, impose a condition on a *complying development certificate* requiring the payment of a monetary contribution in accordance with that plan.

Conditions applying before works commence

1 Protection of adjoining areas

- (1) A temporary hoarding, fence or awning must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
 - (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - (b) could cause damage to adjoining lands by falling objects, or
 - (c) involve the enclosure of a public place or part of a public place.
- (2) A temporary fence must be covered in cyclone wire mesh if it adjoins or is on a public place.
- (3) A temporary hoarding, fence or awning must not be erected on public land or a road unless the relevant authority has approved of the works.

Note. Approval in relation to public land may be granted under the [Local Government Act 1993](#) and an approval in relation to a road may be granted under the [Roads Act 1993](#).

2 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
 - (c) be a temporary chemical closet approved under the [Local Government Act 1993](#).

3 Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- (3) The garbage receptacle must be replaced or emptied when any of its contents extend beyond the top of the receptacle enclosure walls.

4 Notification to neighbours

The person having the benefit of the *complying development certificate* must give at least two (2) days' notice in writing of the intention to commence the works to the owner or occupier of each *dwelling* that is situated within 20m of the lot on which the works will be carried out.

Conditions applying during the works

Note. The [Protection of the Environment Operations Act 1997](#) and the [Protection of the Environment Operations \(Noise Control\) Regulation 2008](#) contain provisions relating to noise.

5 Hours of construction or demolition

Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

6 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the *complying development certificate* relates.

7 Sedimentation and erosion controls

Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

8 Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.
- (4) A sign must be erected and maintained in a prominent and visible position on the site stating:
 - (a) that unauthorised entry to the site is prohibited, and
 - (b) the name of the principal contractor for any building work and a telephone number on which that person may be contacted outside work hours, and
 - (c) the name and phone number of the principal certifying authority for the work.

Construction requirements

9 Staging construction

- (1) If the *complying development* is the erection of, or alterations or additions to, a *dwelling*, the roof stormwater drainage system must be installed and connected to the drainage system before the roof covering is installed.
- (2) Any approval that is required for connection to the drainage system under the [Local](#)

[Government Act 1993](#) must be held before the connection is carried out.

- (3) If the *complying development* involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the *complying development* on the site is obtained.

10 Easements

All parts of the building/structure must be sited clear of any easement affecting the site. The development must be consistent with any Section 88B Restriction under the [Conveyancing Act 1919/1964](#) in which *Council* has an interest in and which applies to the land the subject of the development.

11 Utility services

If the *complying development* requires alteration to, or the relocation of, utility services on the lot on which the *complying development* is carried out, the *complying development* is not complete until all such works are carried out.

DIVISION 2 CONDITIONS APPLYING TO A COMPLYING DEVELOPMENT CERTIFICATE UNDER THE COMMERCIAL AND INDUSTRIAL COMPLYING DEVELOPMENT CODE

Note 1. *Complying development* must comply with the requirements of *the act*, the [Environmental Planning and Assessment Regulation 2000](#) and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an *accredited certifier* must, under section 94EC of the [Environmental Planning and Assessment Act 1979](#), impose a condition on a *complying development certificate* requiring the payment of a monetary contribution in accordance with that plan.

Conditions applying before works commence

1 Protection of adjoining areas

A hoarding or a temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note. See the entry in the [General exempt development code](#) for scaffolding, hoardings and temporary construction site fences.

2 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or

- (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- (c) be a temporary chemical closet approved under the Local Government Act 1993.

3 Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- (3) The garbage receptacle must be replaced or emptied when any of its contents extend beyond the top of the receptacle enclosure walls.

Conditions applying during the works

Note. The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2008 contain provisions relating to noise.

4 Hours for construction or demolition

Construction or demolition that is audible in any *dwelling* on an adjoining lot may only be carried out between 7.00 am and 8.00 pm on Monday to Saturday.

5 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the *complying development certificate* relates.

6 Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

Conditions applying to construction requirements

7 Utility services

If the *complying development* requires alteration to, or the relocation of, utility services on the lot on which the *complying development* is carried out, the *complying development* is not complete until all such works are carried out.

8 Mechanical ventilation systems

If the *complying development* is a mechanical ventilation system that is a **regulated system** in **regulated premises** within the meaning of the Public Health Act 1991, the system must be notified as required by the Public Health (Microbial Control) Regulation 2000, before an occupation certificate (whether interim or final) for the *complying development* is issued.

9 Food businesses

If the *complying development* is a **food business** within the meaning of the Food Act 2003, the food business must be notified as required by that Act or licensed as required by the Food Regulation 2004, before an occupation certificate (whether interim or final) for the *complying development* is issued.

10 Premises where skin penetration procedures are carried out

If the *complying development* involves premises at which a **skin penetration procedure** within the meaning of the Public Health Act 1991 will be carried out, the premises must be notified as required under the Public Health (Skin Penetration) Regulation 2000 before an occupation certificate (whether interim or final) for the *complying development* is issued.

Part 6 Subdivisions Code

Note 1. Schedule 3 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 contains variations to this code.

Note 2. In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the [Environmental Planning and Assessment Regulation 2000](#), various State environmental planning policies, the [Protection of the Environment Operations Act 1997](#), the [Roads Act 1993](#) and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

6.1 Specified complying development

The strata subdivision of a building, other than a dual occupancy, for which development consent or a complying development certificate was granted or issued is, for 5 years from the date the consent or certificate was granted or issued, development specified for this code.

6.2 Development standards

- (1) The standards specified for that development are:
 - (a) that any development consent or complying development certificate relating to the building, the subject of the subdivision, and granted or issued before 1 January 2011 must require the allocation of parking spaces for each individual dwelling, and
 - (b) that the subdivision must not contravene any condition of any development consent or complying development certificate applying to the development.

Note. Registered interests on the land, the subject of the strata subdivision, the [Strata Schemes Management Act 1996](#) and the [Strata Schemes \(Freehold Development\) Act 1973](#) apply.

PART B – DEVELOPMENT CONTROLS

3.0 RESIDENTIAL DEVELOPMENT CONTROLS

This section of the Code provides development controls for residential accommodation, including dwelling house, (Section 3.1) and multi-dwelling housing (Section 3.2) attached dwellings, dual occupancies, residential flat buildings, semi-detached dwellings, seniors housing and shop top housing. This section does not apply to development which satisfies the complying development controls in Section 2.2 Schedule 2 of the Code.

3.1 General Dwelling Controls (common to dwelling houses, attached dwellings, dual occupancies, semi-detached dwellings, Secondary dwelling, Shop Top Housing, Multi-dwelling Housing, Residential Flat building and Tourist visitor accommodation)

This section provides controls relating to the development of all **Development Types** (housing product types) (see below). It includes streetscape, architectural design, *setbacks*, *height*, open space, car parking, and fencing.

It provides criteria for assessment of *dwellings* as *complying development* on a *nominated lot* (**Section 2.2** of the *Code*). Where a proposed *dwelling* does not meet the *complying development* standards, a *development application* (DA) must be lodged addressing the relevant controls in this section. Any variations to relevant controls must be justified against compliance with the relevant control objectives: written justification must be lodged with a DA.

Dwelling house in which one wall may be built-to-boundary.



Attached Dwelling a building containing 3 or more dwellings in which all or at least part of both side walls are built-to-boundary (with the exception of corner lots or lots adjoining public open space, where only the *shared boundary* will have a zero-lot wall).



Semi – Detached Dwelling in which all or at least part of one side wall are built-to-boundary and attached to only one other building and the dwelling exists on its own lot of land.



Secondary dwelling in which two *dwelling*s exist on one title without further subdivision. One form that this development might take is a flat above the *garage* overlooking a laneway.



Dual Occupancy where two (2) *dwelling*s are located on a single lot and can share a common driveway and often have frontages to two streets or a street and a park, but otherwise have no common facilities. These *dwelling*s may be strata-titled/re-subdivided upon completion, often providing freehold title lots with reciprocal easements for access to the lots not located on the access street frontage.



Shop-top Dwelling/s in which one or more *dwelling*/s is/are located on a single lot aboveground floor commercial premises that fronts a street containing other commercial uses. If constructed appropriately, it is optional for the business use/s and the *dwelling*/s to be strata titled/re-subdivided separately from the residential uses upon completion, and the individual *dwelling*s may also be strata-titled/re-subdivided upon completion.



Multi Dwelling housing in which three or more *dwelling*s in an *attached* format (maximum number of *attached dwelling*s to be four) or detached form are located on a single lot and have direct access to the ground, share a common driveway, common property, and communal facilities. These *dwelling*s shall be strata-titled upon completion.



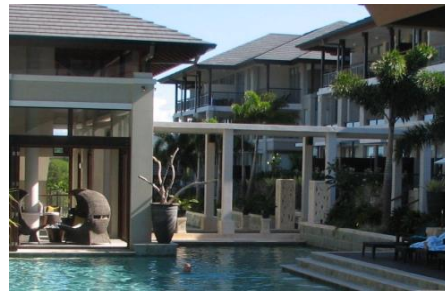
Residential Flat Building a building in which three (3) or more *dwelling*s are located vertically in *storeys* and share car parking, common property and communal facilities. These *dwelling*s shall be strata-titled upon completion.



Seniors Housing in which numerous *attached* and/or *detached dwelling*s, club and recreational communal facilities and an administration component are located on a single lot. These *dwelling*s shall be strata-titled upon completion.



Tourist and Visitor Accommodation (in which short-term and self-contained/short-term accommodation units are located on a single lot along with communal facilities and a building manager. These *dwelling*s may be strata-titled upon completion.



3.1.1 Site Work

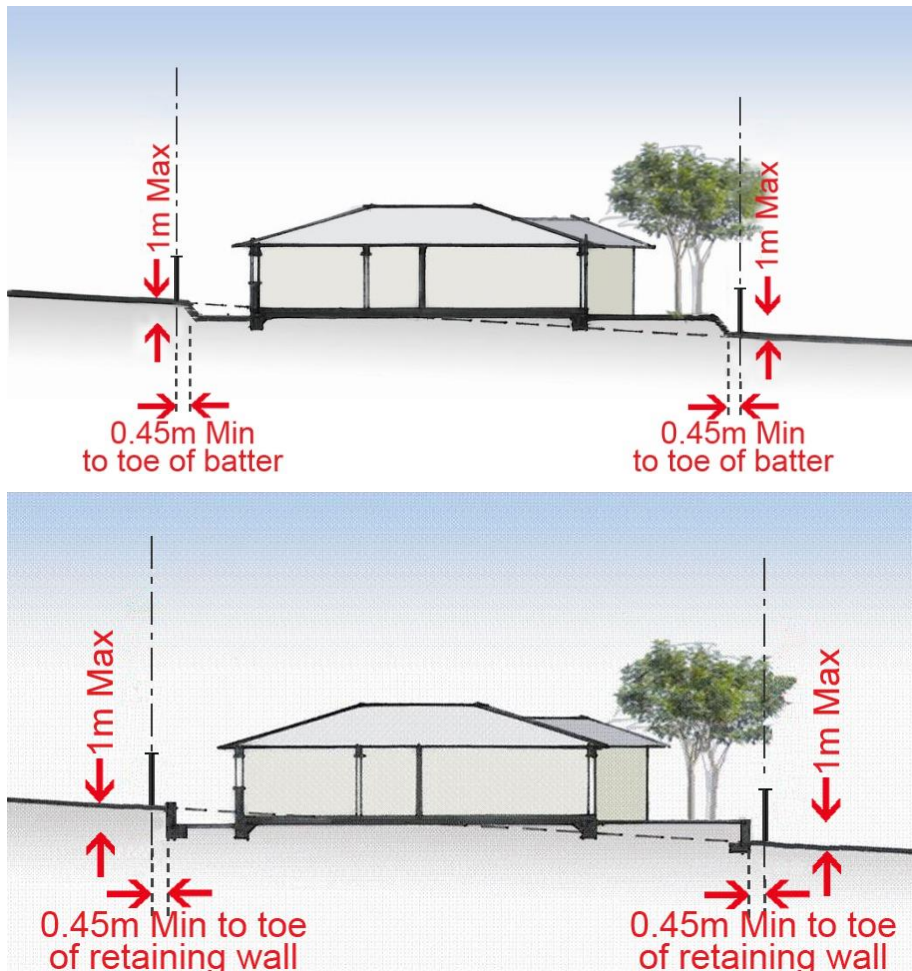
Objectives

- (1) To limit modification of site levels at boundaries to maintain amenity to adjoining properties.
- (2) To ensure site modifications do not cause flooding of adjoining properties.
- (3) To ensure site modifications do not cause site destabilisation.
- (4) To ensure site engineering elements do not adversely impact on the streetscape.
- (5) To ensure that fencing does not destabilise retaining walls.
- (6) To ensure best practice design for sloping sites.

Controls

- (1) Excavation associated with development (other than a swimming pool) must:
 - (a) be not more than 1m below *ground level (existing)*, unless retained and backfilled to the wall of the *dwelling*, and
 - (b) be retained by a wall constructed and supervised in accordance with a practising structural engineer's design and a certificate of structural adequacy provided prior to occupation if it requires a retaining wall greater than 1m in *height*, and
 - (c) cause overland flow affected by site works to be intercepted to prevent damage and nuisance to adjoining properties and such provisions must be indicated on plans submitted for approval, and
 - (d) be located no less than 0.45m from the lot boundary, unless constructed in association with a permitted built-to-boundary wall or where a side *setback* of 0.9m to *outermost projection* (or less) applies, in which case the excavation must not be greater than 0.8m below *ground level (existing)*.
 - (e) not be made for a contiguous slab on ground type construction if the lot has a slope of greater than 10%, in which case only excavations required for a suspended slab and/or an enclosed, elevated slab type of construction are permitted.
- (2) Excavation associated with the erection of, or alterations or additions to, a swimming pool must be not more than the depth required for the pool structure.

- (3) On any site being classed as being in an area affected by acid sulfate soils in which an excavation including pier holes, footings, a swimming pool and/or the like, that extends below the level of any approved fill and will disturb acid sulfate soils, an *Acid Sulfate Management Plan For Minor Works* must be obtained, signed by the owner and submitted with the application to the Principal Certifying Authority.
- (4) Fill associated with development must be:
- (i) if in excess of 1m, contained wholly within the external walls of the *dwelling* or *ancillary development*, or
 - (ii) constructed to a maximum *height* of 1m above *ground level (existing)* using an embankment or a retaining wall if the retaining wall or toe of the embankment is set back greater than 0.45m from the boundary, or
 - (iii) constructed to a maximum *height* of 0.8m above *ground level (existing)* using a retaining wall where the fill is set back less than 0.45m from the boundary and in accordance with 2.2.19 (f).
- (5) All fill on a lot that is constructed using an unprotected embankment shall be battered at a gradient no steeper than 1m vertical to 1.5m horizontal.



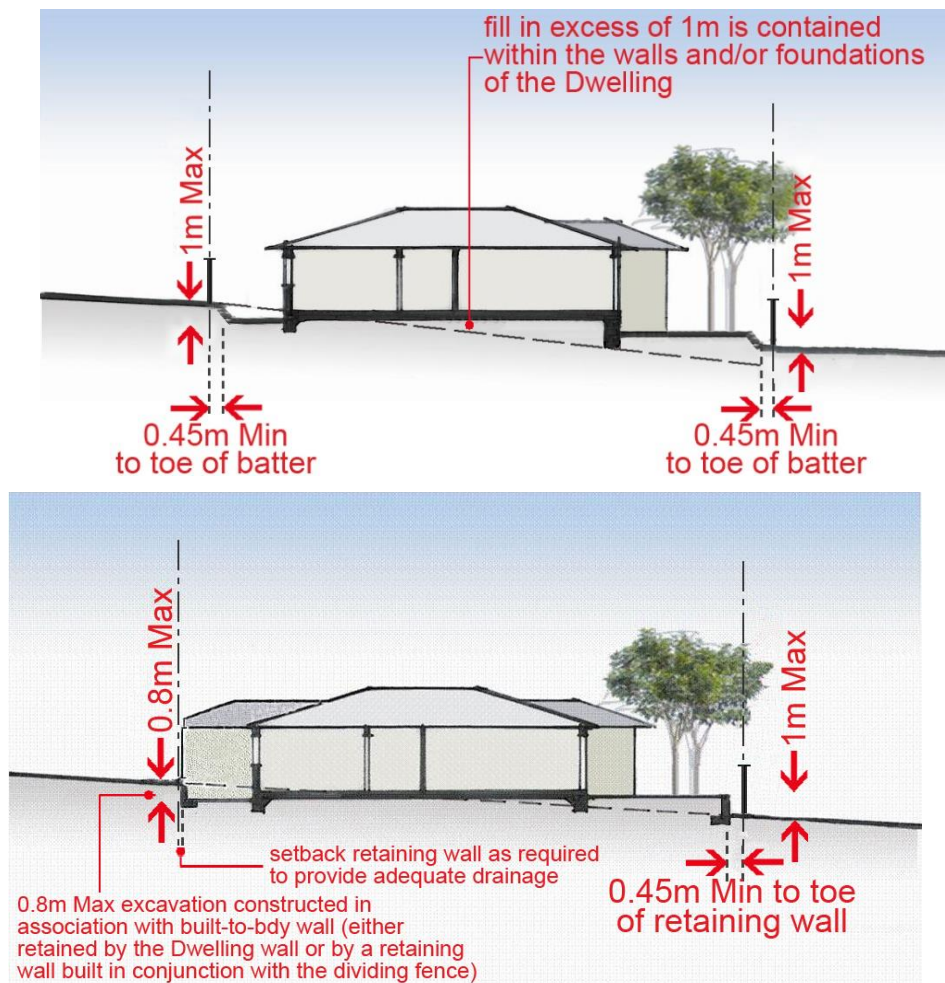


Figure 3.1.1.1 Retaining walls and unprotected embankments

3.1.2 Corner Lots

Objectives

- (1) To encourage building designs which enhance and articulate the streetscape.
- (2) To maximise vehicular sight lines and safety.
- (3) To use land efficiently.

Controls

- (1) Corner lot *setbacks* must be in accordance with the applicable *setback* controls for the *dwelling* type, and in the case of the transition between the primary and secondary frontage *setbacks*, the lesser *setback* applies (see Figure 3.1.2.1 below).

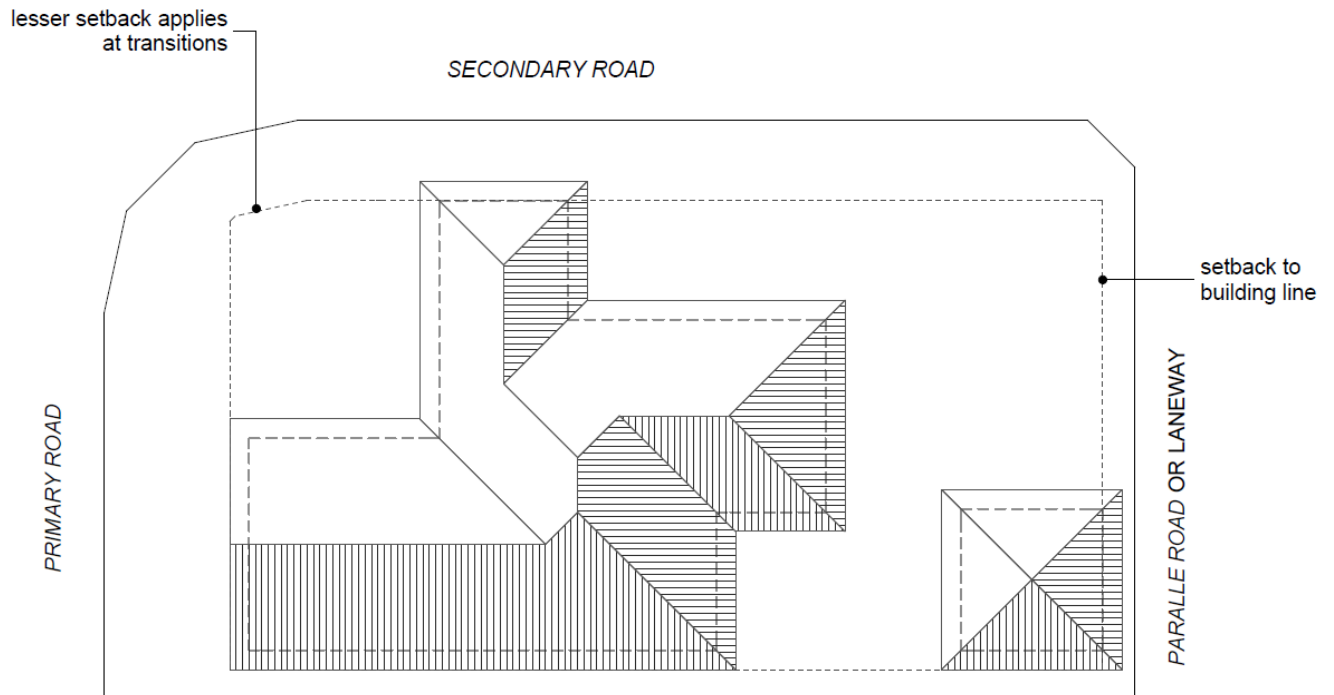


Figure 3.1.2.1 Frontage Setbacks for Corner Lots

3.1.3 Built Form

Objectives

- (1) To encourage the articulation of building facades and roof forms to contribute to attractive streetscapes.
- (2) To promote the development of sustainable buildings.
- (3) To encourage compatible and consistent building form and scale
- (4) To ensure *garages* do not dominate building facades or streetscapes.
- (5) To encourage interesting and individual house designs while maintaining compatibility of form and scale.
- (6) To encourage climatically-responsible house designs.
- (7) To promote colours and finishes sympathetic to natural and built environments.
- (8) To achieve a skyline sympathetic to the topography.

Controls

- (1) *Single dwelling* development is to incorporate the good streetscape design principles at **Figures 3.1.3.1 and 3.1.3.2** wherever possible.

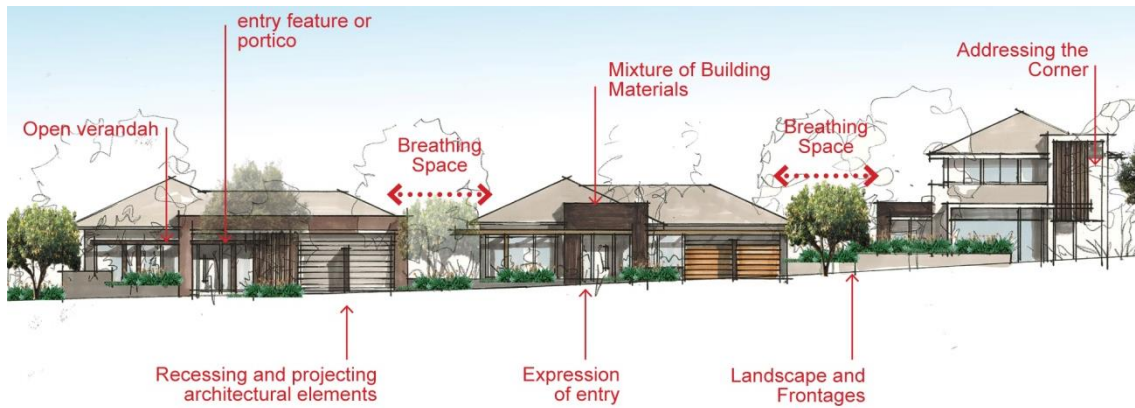


Figure 3.1.3.1 Good Streetscape Design Principles

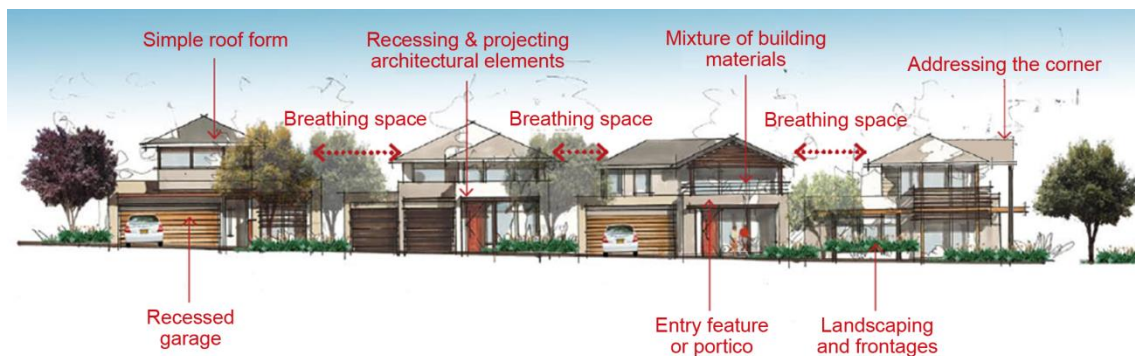


Figure 3.1.3.2 Good Streetscape Design Principles (continued)

- (2) The *primary road* facade of a building shall incorporate at least two of the following design features (a) to (e) (see **Figure 3.1.3.3**):

- (a) Entry porticoes, verandas, balconies, pergolas and screens,
- (b) *Frontage building line* profile stepped a minimum 0.5m (refer to **Figure 3.2.2.1**),
- (c) Recessed or projecting architectural elements,
- (d) A mixture of building materials and colours, or
- (e) Feature materials, including stained timber, stone or architectural-grade steel.



Figure 3.1.3.3 Desirable *primary road* façade design features - timber, stone, wide eaves, porches and verandas

- (3) Eaves or horizontal shading devices (adjustable or fixed) must be provided to shade north, east and west facing windows, and eaves to protect window and door openings.
- (4) Eaves or shading devices must have a minimum 0.6m overhang (measured to the fascia board) and be provided to at least of 70% of the *dwelling*.

Note. An outdoor covered area is considered to be equivalent to an eave.

- (5) *Alternative solutions* to eaves or shading devices are permitted if they block the low rays of the rising and setting summer sun and are compatible with the *dwelling* design, scale, materials, and colour. For example, designs which reduce the extent and size of east and west facing windows.
- (6) All visible hip or gable roofs shall have a pitch ranging from:
 - (a) 20-35 degrees generally, or
 - (b) not more than 10 degrees with eaves of not less than 0.9m.
- (7) All single pitched (skillion) roofs shall have a minimum pitch of 9 degrees on a single *storey dwelling*, six (6) degrees on a multiple *storey dwelling*, or provided behind a parapet.
- (8) Parapet walls shall be:
 - (a) limited, and
 - (b) used in conjunction with other visible roof forms, and
 - (c) articulated in the vertical (elevation) and horizontal (plan) plane.
- (9) *Garage* doors shall:
 - (a) not exceed 50% of the width of the lot (measured at the *frontage building line*), unless the *garage* door is perpendicular to the road frontage, and
 - (b) and be set back from the *frontage building line* by 1m minimum, and
 - (c) where the design incorporates a triple *garage*, the third *garage* door shall be set back a further 0.6m from the main *garage* door.
- (10) Where driveway parking is provided, it must not overhang public property and road reservations adjacent to *garage* doors. In a situation where a 4.5m *setback* is provided to the *garage door line*, one car space may be provided in a diagonal configuration across the driveway (see **Figure 3.1.3.4**).

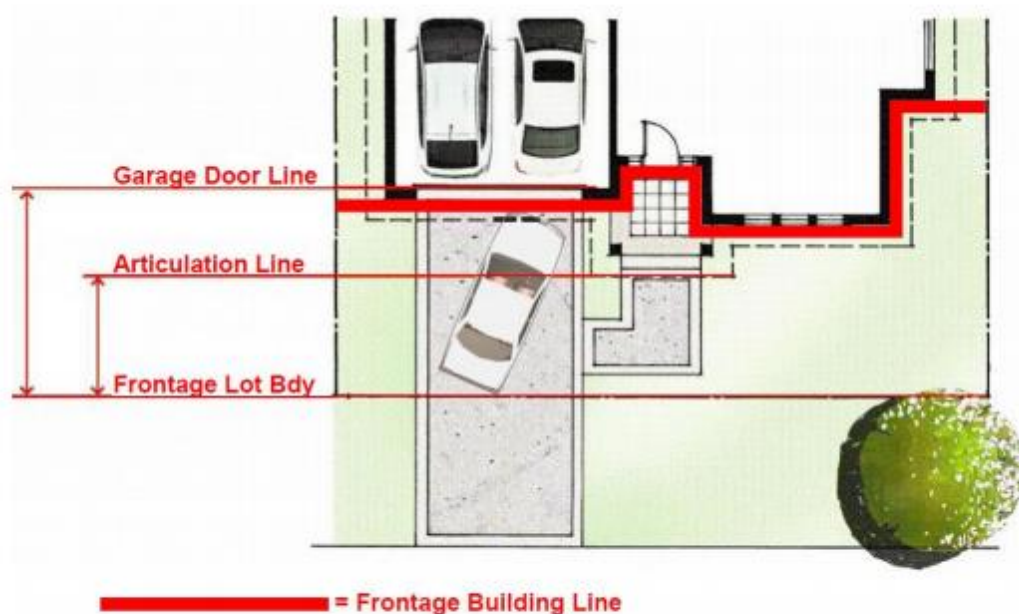


Figure 3.1.3.4: Example of diagonal driveway car parking space in double width driveway with 4.5m setback to garage door line.

- (11) Porticos and entry features are to be in proportion with the scale of the *dwelling*.

- (12) Avoid expanses of any single material. Bright and highly reflective colours must be avoided, except for limited architectural features. Colours and finishes must not be in strong contrast to existing surrounding development. Multi-coloured roof tiles are not permitted.
- (13) Any additions to a *dwelling* visible from a road or public land frontage, shall have external finishes and a colour scheme that match or compliment those of the existing *dwelling*.
- (14) Additions of a maximum area of 6m² comprising awnings, canopies and storm blinds *attached* to a *dwelling* are permitted.



Figure 3.1.3.5 Examples of desirable climatically responsible design, wide eaves, deep shaded Private Open Space areas.

3.1.4 Dwelling Height, Massing and Siting

Objectives

- (1) To ensure development responds to the topography and context.
- (2) To allow *building heights* which promote pleasant streets and high residential amenity.
- (3) To promote a variety of residential densities within the precinct.
- (4) To encourage privacy.

Controls

- (1) All dwelling houses, attached dwellings, semi-detached dwellings, dual occupancies, and secondary dwelling, multi dwelling houses, seniors housing, development types are to generally be a maximum of two *storeys* in *height* except as stated in **3.1.4(2) and (3)** below.
- (2) Additional stories are permissible on a lot as noted on an approved *plan of development* or maximum single storey height. The *plan of development* will also nominate those allotments which may be only a single storey.
- (4) Residential flat buildings, shop top housing and tourist visitor accommodation development types are generally three (3) storeys in height or other height as noted on an approved plan of development. These forms of development are generally found within town and neighbourhood centres or adjoining structured open space.
- (5) The overall *building height* of a building from *ground level (existing)* at any point shall not be more than 5m for a one *storey dwelling*, 9m for a two *storey dwelling* and 12m for a three *storey dwelling*, except as varied by sub-clauses (4) and (5) and 3m for each storey above 3 storeys.
- (6) The *height* control in sub clause (3) may be increased by 1m where a basement carpark is proposed with the building.

- (7) The *building height* of an *outbuilding* on a lot nominated for a *dwelling* shall not be more than 4m above *ground level (existing)*.
- (8) Wall lengths of a *height* of two *storeys* or more shall not exceed 40% of the length of the side boundary for a dwelling house, semi-detached dwelling or dual occupancies where the *setback* to that boundary is less than 2m.
- (9) Wall lengths for an Attached Dwelling, of a height of two storeys or more shall not exceed 60% of the side boundary where the setback to that boundary is less than 1m.

Note 1. The extra 1m height in control 3.1.4(5) above will be considered on its merits where it is required to cater for basement car parking; and is related to the development type specified in that control.

3.1.5 Car Parking, Garages and Site Access

Objectives

- (1) To provide adequate parking for residents and visitors.
- (2) To provide flexibility in visitor car parking requirements for certain building designs and land uses.
- (3) To reduce the visual impact of *garages*, carports and parking areas.
- (4) To ensure that *garages* do not dominate the appearance of residential buildings from the street.

Controls

- (1) Car parking must be provided as per the rates specified in **Table 3.1.5.1** or as nominated on a *plan of development*, whichever is the lesser.

Table 3.1.5.1 Car Parking Requirements

Dwelling Type	Car Parking Required
Dwelling House with an effective lot width = to and >10m	Minimum 2 spaces (1 covered)
Dwelling House with an effective lot width <10m	Minimum 1 space (covered)
Semi-detached Dwelling, Attached Dwelling	Minimum 2 spaces (1 covered)
Multi Dwelling housing and Residential Flat Building	Minimum 1 space per one-bedroom <i>dwelling</i> , 1.5 spaces per two-bedroom <i>dwelling</i> , 2 spaces per three-bedroom <i>dwelling</i> (with 1 space per <i>dwelling</i> covered). Plus visitor parking (on street) at the rate of 0.25 spaces per <i>dwelling</i>
Seniors housing	Minimum 1 space per self-contained dwelling (covered) or 0.25 spaces for hostel/care facilities. Plus visitor /staff parking (on street) at the rate of 0.25 spaces per dwelling
Tourist and visitor accommodation	Commercial Component – 1 space per 66m ² GFA 0.25 spaces per dwelling
Shop top housing	Residential Component - Minimum 2 spaces (1 covered) Commercial Component – 1 space per 66m ² GFA
Secondary	No additional car parking required

dwelling	Note 1. <i>Secondary dwelling</i> development must not reduce any car parking provided for the principal <i>dwelling</i> .
-----------------	--

Note 1. In this table a “covered” car parking space includes a carport or garage space.

- (2) *Garages* and carports must have minimum unobstructed dimensions of 3m width x 5.4m length for single car accommodation, 3m x 10.5m for tandem car accommodation or 5.6m width x 5.5m length for double car accommodation.
- (3) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.
- (4) *Garages* and carports must be located in accordance with:
 - (a) the *plan of development*, or, otherwise, in accordance with the *garage* location principles as per **Figure 3.1.5.1**; and

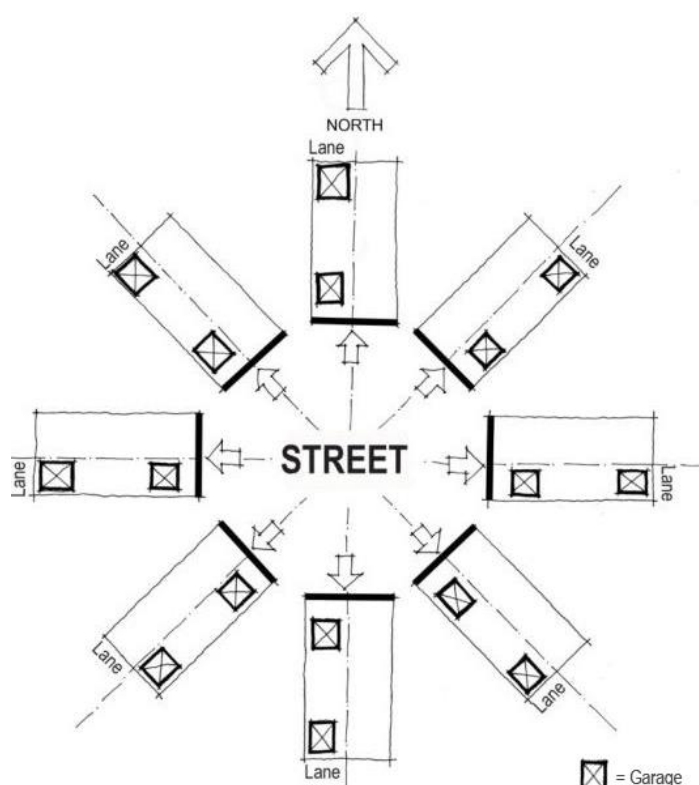


Figure 3.1.5.1 Garage Location Principles.

- (b) built form controls as determined by **Section 3.1.3**, and
- (c) The *garage* configuration controls as provided by **Table 3.1.5.2**.

Table 3.1.5.2 Garage Configurations

Effective Width	Lot	5m - <7m	= to and >7m - <10m	= to and >10- <15m	= and >15m- <20m	>20
Option 1 (additional tandem bays are also permitted)						
	Front /Rear	Front / Rear	Front / Rear	Front	Front	
Width	Single	Single or Double	Single or Double	Double or Triple	Double or Triple	

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. Tandem car parking spaces (nose to tail) may be provided only where both spaces are allocated to one *dwelling*.

Note 3. For *single dwellings* set back controls to *garage* Door as per Table 3.2.2.1 also apply.

- (5) *Garages*, carports and vehicle doors shall be:
- (a) visually recessed through use of materials, colours, and overhangs, and
 - (b) integrated with of the *dwelling* design and materials.
- (6) Driveways must comply with the following criteria:
- (a) maximum 4.5m width at the property boundary generally, except on narrow laneways where a wider driveway may be provided to comply with *Australian Standard AS2890.1:2004 Parking facilities - Off Street Car Parking*, and
 - (b) the location of driveways shall be determined with regard to *dwelling* design, orientation, street gully pits, tree bays and the maximisation of available on-street car parking.
 - (c) driveways are to be in accordance with *Council’s* standard *Driveway Access to Property Design Specification*, and
 - (d) a driveway crossover must be approved by application to *Council* under Section 138 of the Roads Act 1993 to undertake work within a road reserve.

3.1.6 Fencing

Objectives

- (1) To provide property security and privacy .
- (2) To facilitate passive surveillance of public places.
- (3) To promote attractive streetscapes.

Controls

- (1) Fencing forward of the *frontage building line* shall be constructed in accordance with **Table 3.1.6.1** and **Figures 3.1.6.1, 3.1.6.2 and 3.1.6.3.**



Figure 3.1.6.1 Front fencing to promote public safety through passive surveillance of street

Table 3.1.6.1 Fencing Forward of the Frontage Building Line

Fence Control	Setback from the road frontage boundary	Minimum and maximum heights above Ground Level (existing)*	Type/s of fence permitted	Extent permitted to frontage boundary	Other requirements or notes
Fencing to a Primary Road frontage <u>not</u> providing privacy for a private open space and up to the building line	0m	0.6m minimum and 1.5m maximum	Solid masonry upto 0.6m, a combination of solid masonry (pillars) and transparent, or transparent or Translucent.	A maximum of 60% of the total length of the frontage boundary. (excluding any transparent or translucent gates)	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence for 50% of the fence.
Fencing to a primary or Secondary Road frontage providing privacy for a private open space	0m.	1.5m	a combination of 30% maximum solid masonry and transparent, or transparent or translucent	100%	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence for 50% of the

Fence Control	Setback from the road frontage boundary	Minimum and maximum heights above Ground Level (existing)*	Type/s of fence permitted	Extent permitted to frontage boundary	Other requirements or notes
					fence.
Fencing to a Secondary Road frontage of a corner lot <u>not</u> providing privacy for a private open space	A minimum of 0.5m.	1.5m	a combination of 30% maximum solid masonry and transparent, transparent or translucent	100%	Landscape planting of minimum width 300mm is required between the frontage boundary and the fence.
Fencing to open space	0m	1.5m	a combination of 30% maximum solid masonry and transparent, transparent or translucent	100%	
Fencing to Cobaki Parkway and or Sandy Creek Lane	0m	1.8m [#]	Solid masonry, or a combination of solid masonry and/or timber capped to meet acoustic requirements	100%(including any gates/gatehouses)	

*An increase in height of 0.3m above Ground Level may be permitted if the fence is solid masonry and incorporates the retaining of fill (maximum 1.2m).

[#] Maximum height shall be in accordance with an approved acoustic report.

Note 1: 100% Light weight Pool type fencing is not permitted unless in combination with masonry pillars and base, Use of shade cloth or similar attached to fences is not permitted.

Note 2: Sight triangles must be maintained to ensure pedestrians and cyclists can see vehicles exiting driveways and vice versa. See Tweed Shire Council Driveway Access to Property- Design Specification Version 1.

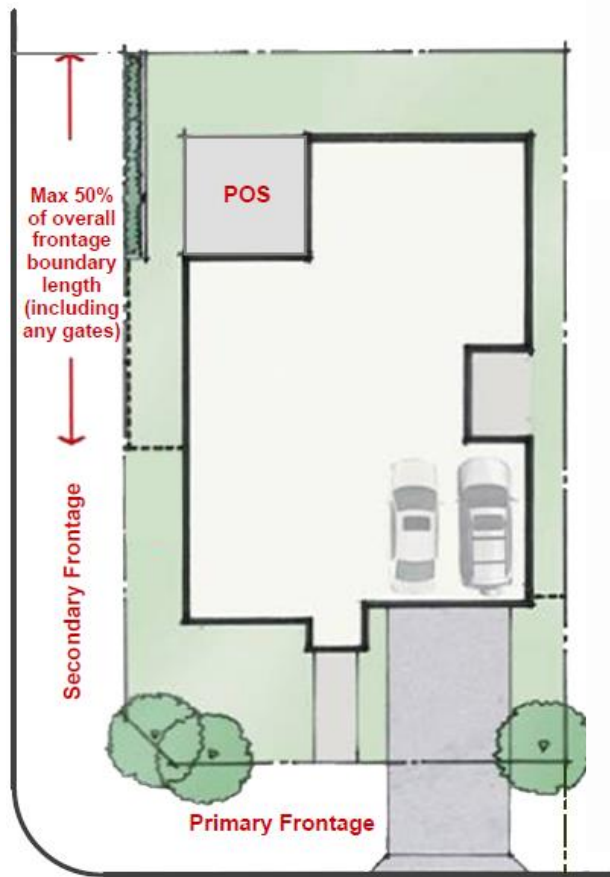


Figure 3.1.6.2 Solid fencing extending to part of a boundary

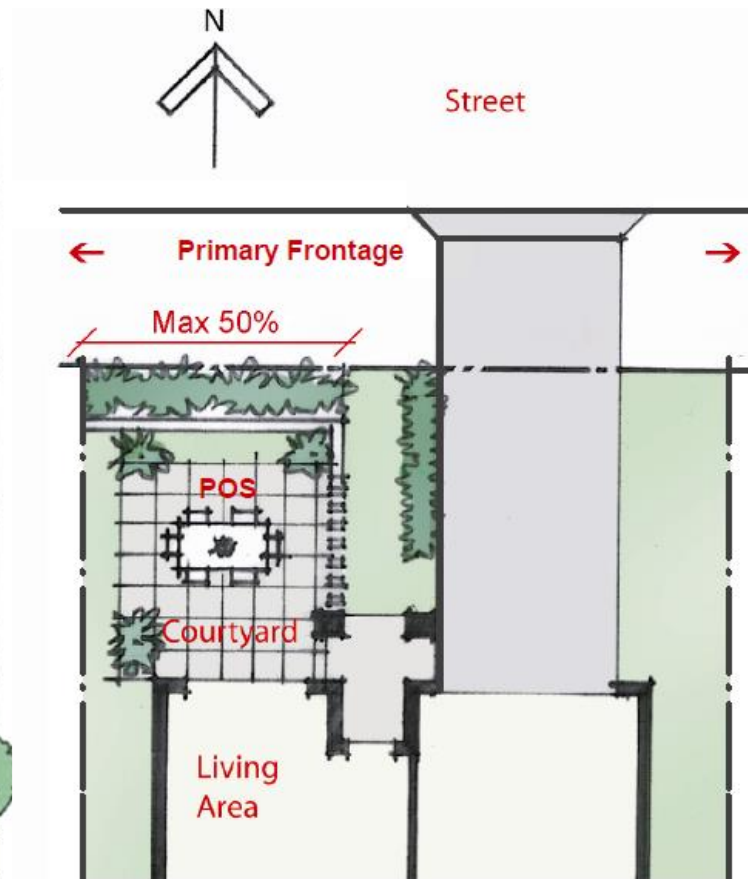


Figure 3.1.6.3: Limited fencing permitted when living spaces face north to street

- (2) Fencing behind the *frontage building line* on a boundary shared with another residential lot is referred to as *shared boundary fencing* and shall be:
- Solid fencing, and
 - constructed with a raked top profile following the profile of the *ground level (existing)*, and
 - a maximum *height* of 1.8 metres including the *height* of any retaining walls, as measured from *ground level (existing)*, with a tolerance of $\pm 0.3\text{m}$ in the case of a sloping lot, and
 - leave a gap not greater than 0.050m at the bottom between the fence materials (other than supporting posts) and the *ground level (finished)* and
 - have footings that are located below the ground line (existing), and
 - not be an electrified fence or use barbed wire, and
 - not redirect the flow of surface water onto any adjoining property.
- (3) Fence Types, Materials and Colours are described as follows:
- Solid** fencing, constructed of materials specified in the *design guidelines* for solid fences.

- (b) **Transparent** fencing, which is to comprise a maximum of 15% solid and is to be constructed of materials specified in the *design guidelines* for transparent fences. Refer **Figure 3.1.6. 4**
- (c) **Translucent** fencing, which is to comprise a minimum of 15% openings and is to be constructed of materials specified in the *design guidelines* for translucent fences. Refer **Figure 3.1.6.5.**



Figure 3.1.6.4 Examples of transparent fencing



Figure 3.1.6.5 Examples of translucent fencing on a secondary boundary of a corner site

3.1.7 Visual Privacy

Objectives

- (1) To ensure reasonable levels of visual privacy between *dwelling*s and to *private open spaces*.

Controls

- (1) First floor windows, balconies and decks or in rooms with floor levels greater than 1.0m above natural ground level must have effective privacy screening where they face south, west, or southwest to an adjoining *dwelling* lot and are not set back more than 10m from the boundary with that lot.
- (2) Effective privacy screening is provided if:
 - (a) windows have sill *heights* of 1.5m above finished floor level; or
 - (b) fixed and obscure glass is provided for all areas up to 1.5m above finished floor level; or
 - (c) external fixed screening to openings or balconies to 1.5m above the finished floor and with a maximum open-to-solid ratio of 50%.

3.1.8 Flooding and Water Cycle Management

Objectives

- (1) To minimise the potential impact of flooding on development.
- (2) To incorporate best practice stormwater management principles and strategies in development proposals.
- (3) To mitigate the impacts of development on stormwater quality.
- (4) To control the impacts of development on channel beds and bank erosion by controlling the magnitude and duration of sediment-transporting flows.
- (5) To limit changes in flow rate or flow duration within receiving waterways as a result of development.

Controls

- (1) **Development of Flood Liable Land:**
 - (a) Development must be in accordance with Tweed Development Control Plan 2008, Section A3 Development of Flood Liable Land.
- (2) **Erosion and Sediment Control:**
 - (a) Erosion and sediment controls must be in accordance with Tweed Development Control Plan 2008, Development Design Specification D7 - Stormwater Quality and Annexure A - Code of Practice for Soil and Water Management on Construction Works.
 - (b) An Erosion and Sediment Control Plan must be submitted with all *development applications*.
- (3) **Permanent stormwater quality facilities:**
 - (a) Subdivision and drainage systems shall be designed in accordance with Tweed Urban Stormwater Management Plan, Section 5.5.3 Stormwater Objectives During the Post Construction or Occupational Phase of Development (Table A5-4), and Tweed Development Control Plan 2008, Development Design Specification D7 – Stormwater Quality.
- (4) Rainwater harvesting is to be provided in accordance with Appendix C as per the minimum lot sizes specified in this Code unless the subject land has a reticulated recycled water supply.

Note 1. The requirement in Control 3.1.8 (4) above may include any rain water storage required to comply with *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

3.2 Dwelling house, Semi-detached Dwelling and Attached Dwelling Controls

Certain *dwelling*s can be assessed under the *Code* as *complying development* on a *nominated lot* (see **Section 2.2** of the *Code*. Where a proposed *dwelling* does not meet the *complying development* standards, a *development application* shall be lodged addressing the controls in this section. Any variations to the controls must be justified against achievement of the control objectives.

This section provides controls relating specifically to one *dwelling* on a single lot, namely a dwelling house, attached dwelling and a semi - detached dwelling (see Figure 3.2.1 below). These controls are to be read in conjunction with the general residential controls at **Section 3.1**.

This section includes controls for streetscape, architectural design, *setbacks*, *height*, open space, car parking, built-to-boundary walls, and fencing.



Figure 3.2.1 Single Dwelling Types

3.2.1 Front Setbacks and Articulation Zones for Dwelling house, Semi-detached Dwelling and Attached Dwelling

Objectives

- (1) To encourage pleasant streetscapes and public domain areas.
- (2) To reduce the visual dominance of *garage* doors and fencing.
- (3) To ensure visitor parking in front of *garage* doors does not overhang front property boundaries.
- (4) To encourage varied facades through eaves, verandas, balconies and feature elements.

- (5) To facilitate public safety by passive surveillance.
- (6) To allow sufficient space for landscaping adjacent to front boundaries.

Controls

- (1) Front *setbacks* for Dwelling house, Semi-detached Dwelling and Attached Dwelling are to comply with **Table 3.2.1.1**.

Table 3.2.1.1: Minimum Setbacks to Articulation Zones, Frontage Building Lines and Garage Door Lines for Dwelling house, Semi-detached Dwelling and Attached Dwelling.

Effective Lot Width	7.5m - < 10m	= to and >10m up to 15m	= to and >15m	Measured to
Primary Road Frontage Articulation Zone	1m	2m	3m	<i>outermost projection</i>
Secondary Road Frontage Articulation Zone	0.5m	1.5m	2.5m	<i>outermost projection</i>
Primary Road frontage building line	2m	4.5m*	5m	To wall
Secondary Road frontage building line	1.5m	2.5m	4.5m	To wall
Garage door line measured to either road frontage	0.6m behind the building line	4.5m for a double <i>garage</i> and 5.5m for a single <i>garage</i> **	6m	To the wall containing the <i>garage</i> door

Note 1. The term "Effective Lot Width" is defined in the Glossary (Appendix A)

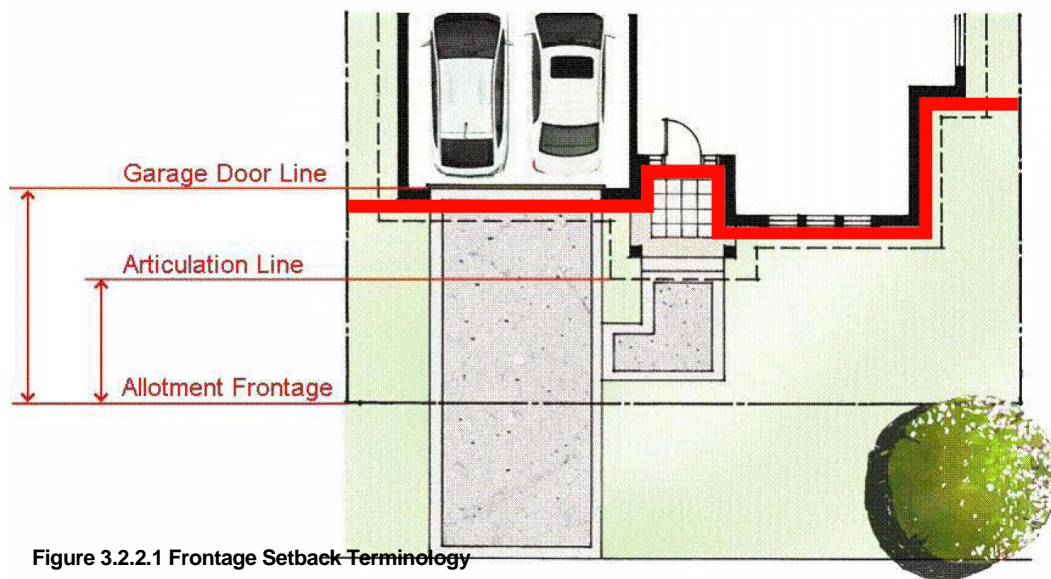
*Council may consent to a reduction in the minimum setback of one or more buildings, up to 3m, where Council is satisfied:

- i) the site is located in an urban residential area, permitting higher residential densities;
- ii) is in close proximity to the Town Centre/ Neighbourhood Centre;
- iii) where it can be demonstrated that the development, if carried out, would improve the siting or orientation of the dwelling/s or the provision of private open space; and
- iv) would not significantly reduce the level of privacy enjoyed by adjoining properties.

**A 5.0m garage door line shall be provided where the building line setback is 4.5m.

* Measured at the Frontage Building Line.

Note 1. See Figure 3.2.1.1 (below) for illustration of frontage *setback* terms.



 = Frontage Building Line

3.2.2 Side and Rear Setbacks for Dwelling House with an effective Lot width = and >15m and Certain Ancillary Development

Objectives

- (1) Minimise impacts on neighbouring properties relating to views, privacy, and overshadowing.
- (2) To provide 'breathing space' between buildings.
- (3) To ensure equitable access to natural light and ventilation for all residential buildings.
- (4) To encourage the efficient use of land.

Controls

- (1) *Dwellings* must comply with the side and rear *setback* controls at **Table 3.2.2.1** or the *Building Code of Australia*, whichever is the greater, except for projections which are permitted into side and rear *setbacks*.

Table 3.2.2.1 Side and rear boundary Setbacks for Dwelling House with an effective Lot width = to and >15m certain Ancillary development

Type of Setback	Setback	Measured to
Ground Floor Setback to side boundaries	1.2m	To wall
First Floor Setback to side boundaries (including any parts over 4.5m high)	1.5m	To wall
Second Floor Setback to side boundaries (including any parts over 8.5m high)	2m	To wall
Rear Boundary Setback (ground and first floors, excluding rear lanes)	3m	To wall
Rear Boundary Setback (second floors, excluding rear lanes)	4m	To wall
Rear Articulation Zone (ground and first floors, excluding rear lanes)	2m	To wall
Rear Articulation Zone (second floors, excluding rear lanes)	3m	To wall

* Measured at the Frontage Building Line.

Note 1. For *outbuildings*, refer to clause 3.2.3

Note 2. Projections permitted into side and rear *setback areas* include sun hoods, *architectural* fins or architraves, gutters, down pipes, flues, light fittings and electricity or gas meters, rainwater tanks and hot water units.

Note 3. Pergolas and other unroofed landscape elements may extend within the side and rear *setbacks* to minimum distances permitted by the *Building Code of Australia*.

Note 4. The outermost projection for a single storey can extend 450mm into the nominated setback and 900mm for the first floor.

3.2.3 Side and rear boundary Setbacks for Dwelling house with an effective Lot width < 15m, semi-detached dwelling, attached dwelling and dual occupancies (attached), Outbuildings (detached) and certain Ancillary (attached) Development

Objectives

- (1) To facilitate the efficient use of land on smaller allotments.
- (2) To ensure equitable access to natural light and ventilation for all residential buildings by providing adequate distance between *dwellings*.
- (3) To provide residents with information on rights and responsibilities for zero-lot *dwellings*.

Controls

A *dwelling* and any carport, *garage*, balcony, deck, patio, pergola, terrace or verandah that is *attached* to the *dwelling* or an *outbuilding* (located behind the *frontage building line*) on a lot designated for a Dwelling house with an effective Lot width < 15m, semi-detached dwelling, attached dwelling, and dual occupancies(attached) must comply with the minimum *setbacks* from a side or rear boundary in Table 3.2.3.1 (see explanatory Figure 3.2.3.1).

Table 3.2.3.1 Side and rear boundary Setbacks for Dwelling house with an effective Lot width < 15m, semi-detached dwelling, attached dwelling and dual occupancy (attached), Outbuildings (detached) and certain Ancillary (attached) Development

Effective Lot Width	7.5m - <10m	= to and >10m – 15m	= to and >15m
Location criteria for built-to-boundary walls	Building to both boundaries permitted up to 2 storeys	Building to 2 boundary permitted up to 1 storey and separated in plan by no less than 2m from any Built-to-boundary construction on an adjoining allotment	Building to 1 boundary**, permitted up to 1 storey and separated in plan by no less than 2m from any Built-to-boundary construction on an adjoining allotment
Built-to-boundary wall Setback	0.025m to 0.25m	0.025m to 0.25m	0.025m to 0.25m
Maximum Extent of Built-to-boundary walls up to 1 Storey	The lesser of 18m or 60% of the applicable boundary length for a minimum length of 3m in any one section	The lesser of 20m or 55% of the applicable boundary length	The lesser of 20m or 55% of the applicable boundary length
Maximum Extent of Built-to-boundary walls up to 2 Storeys	No more than 2m in plan and 1m in elevation variance to any existing or <i>design review panel</i> Certified built-to-boundary wall on the applicable lot boundary and no more than the lesser of 85% of the applicable boundary length	Not applicable	Not applicable
Ground Floor Setback (to the side boundary that is designated for Built-to-boundary construction, but excluding Built-to-boundary walls)	1.2 to the wall and 0.9m to <i>outermost projection</i>	1.5m to wall and 1.2m to <i>outermost projection</i>	Not applicable
Ground Floor Setback (to the side boundary that is not designated for Built-to-boundary construction)	1.2m to wall and 0.9m to the outer most projection	1.2m to wall and 0.9m to the outer most projection	1.5m to wall and 1.2m to the outer most projection
First Floor Setback (to side boundaries, excluding Built-to-boundary walls but including parts over 4.5m high)	1.2m to wall and 0.9m to the outer most projection	1.5m to wall and 1.2m to the outer most projection	2m to wall and 1.2m to the outer most projection
Second Floor Setback (to side boundaries, excluding Built-to-boundary walls if permitted, including all parts over 8.5m high)	2m to wall and 1.5m to the outer most projection	2m to wall and 1.5m to the outer most projection	2.5m to wall and 2.0m to the outer most projection
Rear Boundary Setback (ground and first floors,	3m to <i>outermost projection</i>	3.5m to <i>outermost projection</i>	4m to <i>outermost projection</i>

Effective Lot Width	7.5m - <10m	= to and >10m – 15m	= to and >15m
excluding rear lanes)			
Rear Boundary Setback (second floors, excluding rear lanes)	4m to <i>outermost projection</i>	4.5m to <i>outermost projection</i>	4.5m to <i>outermost projection</i>
Rear <i>Articulation Zone</i> Setback (ground and first floors, excluding rear lanes)	2m to <i>outermost projection</i>	3m to <i>outermost projection</i>	3m to <i>outermost projection</i>
Rear <i>Articulation Zone</i> Setback (second floors, excluding rear lanes)	3m to <i>outermost projection</i>	4m to <i>outermost projection</i>	4m to <i>outermost projection</i>

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. Downpipes gutters and eaves must not extend over the boundary.

Note 3. Where setbacks are measured to the wall, eaves or other projections of 0.6m or less may project into the setback but must not encroach closer than 0.6m to any lot boundary.

Note 4. A corner lot may be considered to have two side boundaries and no rear boundaries.

Note 5. Gatehouse structures to Sandy Lane and Cobaki Parkway are permitted within the rear setback and rear and side boundaries to open space, provided they have an area <4m² and not exceed 2.5m in height.

Note 6. Built to boundary walls are those nominated on the plan of development.

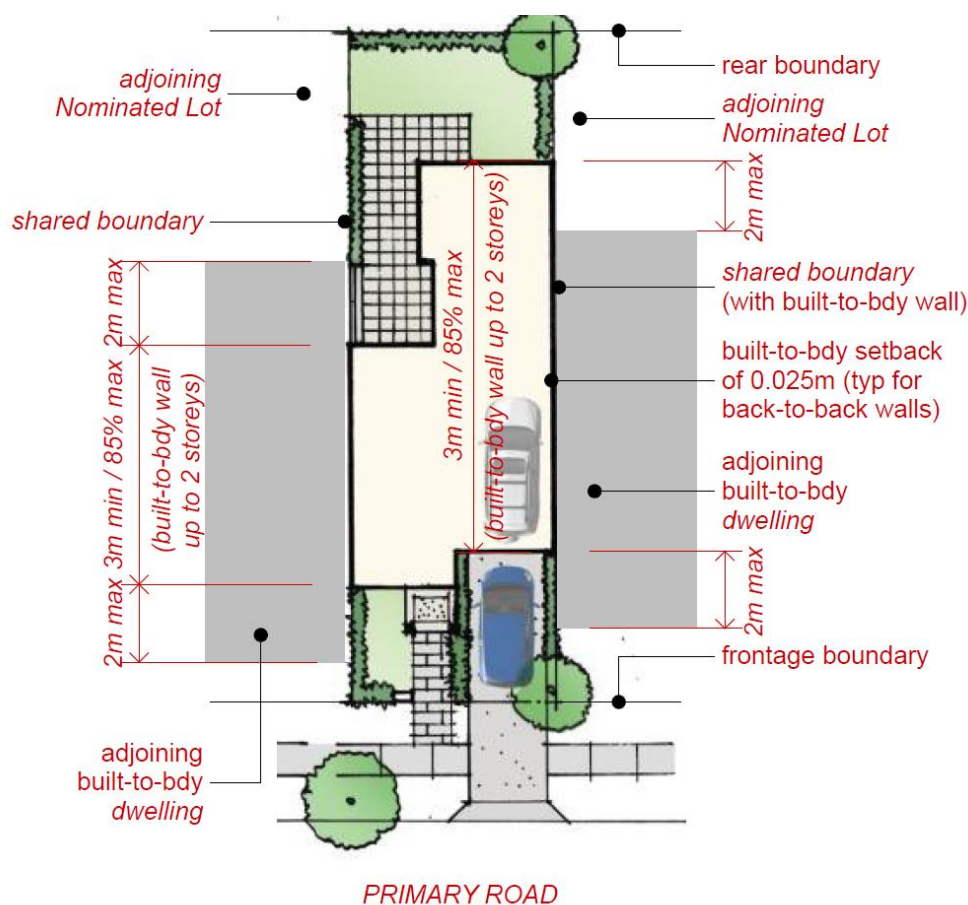


Figure 3.2.3.1 Explanatory Diagram for Side and Rear Boundary Setbacks, Attached dwelling, (detached) Outbuildings and certain (attached) Ancillary Development

- (2) The location of any built to boundary wall development must comply with the relevant *Plan of*

development and linked Section 88B instrument. Where a built to boundary is not specified on the *plan of development* it is to be determined by the preferred built-to-boundary wall location principles in **Figure 3.2.3.2** below.

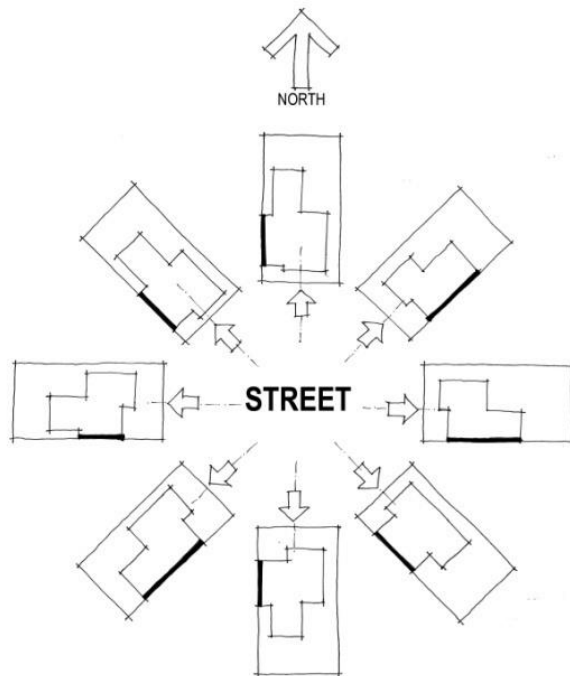


Figure 3.2.3.2 preferred zero-lot wall locations

3.2.4 Private Open Space

Objectives

- (1) To provide usable *private open space* for outdoor recreation for all *dwellings*.
- (2) To provide high levels of residential amenity.
- (3) To facilitate solar access to living areas and *private open spaces*.
- (4) To ensure minimum standards of sunlight access for adjoining *dwellings*.

Controls

- (1) All *dwellings* require *private open space (POS)* consistent with **Table 3.2.4.1** and no steeper than 1:10 gradient. On steeper sites, POS must be terraced or provided on a deck to ensure it is functional recreation space.
- (2) POS is to be located as per the Plan of Development and/or having regard to *dwelling* design, allotment orientation, adjoining *dwellings*, landscape features, topography and preferred POS locations illustrated at **Figure 3.2.4.1**.
- (3) The POS must be contiguous with and accessible from the main living area of a *dwelling*.
- (4) *Outdoor rooms* and the like may be included in the calculation of POS.
- (5) Where the POS is a patio, balcony or roof-top area, it shall be provided with a solid balustrade,

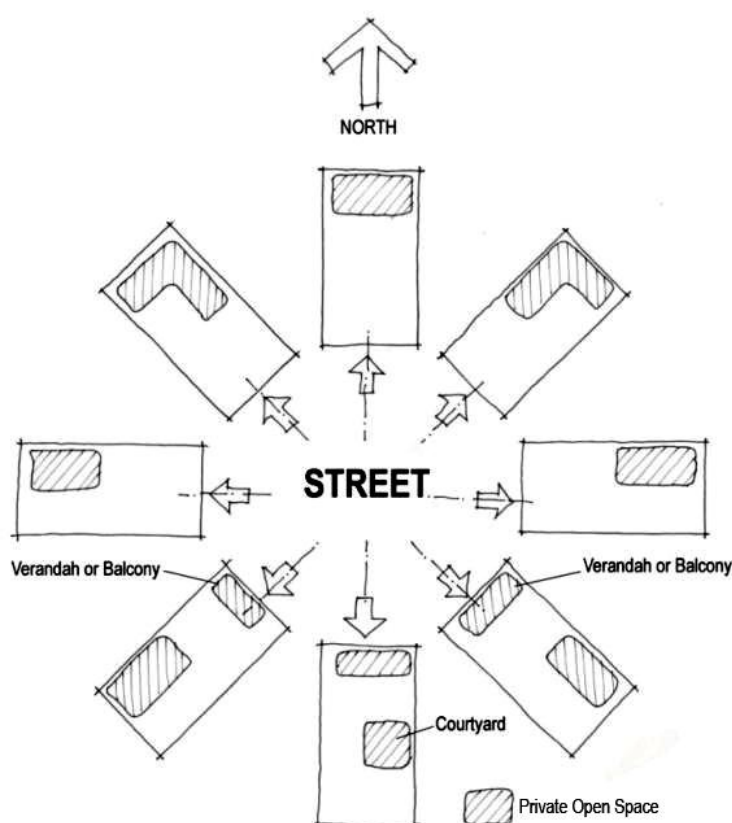
a solid or translucent fence or landscaped screen of a minimum 1m in *height*, and be directly accessible from the living area of the *dwelling*.

Table 3.2.4.1: Private Open Space (POS)

Effective Lot Width	7.5m – <10m	= to and >10m – <15m	= to and >15m
Private Open Space (POS) at ground level	Min. 15m ² with a min. dimension of 3m and provided with adequate privacy, or	Min. 20m ² with a min. dimension of 3m and provided with adequate privacy, or	25m ² with a min. dimension of 3m and provided with adequate privacy
Private Open Space (POS) at first floor level for a <i>first floor living solutions</i>	Min. 6m ² if provided as a balcony or rooftop with a min. dimension of 2.1m	Min. 12m ² if provided as a balcony or rooftop with a min. dimension of 3m	Not applicable

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. *Private open space (POS)* means the portion of private land which serves as an extension of the *dwelling* to provide space for relaxation, dining, entertainment and recreation. It includes an *outdoor room*.



3.2.5 Landscaped Area

Objectives

- (1) To enhance the landscape character of Cobaki Estate.
- (2) To limit impermeable surfaces.
- (3) To provide for *deep planting areas* in residential precincts.

- (4) To provide amenity and privacy.
- (5) To enhance sustainable building design.

Controls

- (1) *Dwellings* must comply with the minimum *landscaped area* requirements at **Table 3.2.5.1**.

Table 3.2.5.1: Landscaped Area

Effective Lot Width	7.5m – <10m	= to and <15m – >10m	= to and >15m
Minimum Landscaped Area dwelling house, attached dwelling, semi-detached dwelling, or dual occupancy's (attached)	5%**	15%**	20%**

**May include other required areas such as *private open space* and all *setbacks* comprising permeable surfaces.

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. The requirements are expressed as percentages of lot area.

Note 3. The *landscaped area* means any part of a lot, at ground level, that is permeable and consists of soft landscaping, pebbles, turf or planted areas and the like. It does not include driveways, parking areas, hard paved drying yards or other service areas, swimming pools, tennis courts, undercroft areas, roofed areas (excluding eaves less than 0.6m to fascia board), *outdoor rooms*, balconies, rooftop gardens, terraces, decks, verandas and the like.

Note 4. Landscaped open space may include other required areas such as *private open space* and/or *setbacks*.

Note 5. All landscaping in front of the buildings line shall generally utilise species as identified in the Landscape Master Plan. A minimum of one (1) 100L tree or two (2) 200L palms shall be installed in front of the building line for each dwelling and generally be a minimum of 3m from a side boundary or the dwelling.

3.2.6 Special Controls for Shop Top housing

Objectives

- (1) To provide purpose-built, work-from-home opportunities.
- (2) To facilitate choice in child care and family raising strategies for working parents.
- (3) To facilitate vibrant and safe neighbourhoods.
- (4) To provide pleasant varied streetscapes.
- (5) To provide building layouts which separate work and residential environments.
- (6) To avoid conflicts between business and residential land uses.

Controls

- (1) The business use component must:
 - (a) be located at the ground floor level and have a frontage to the street or a publicly accessible area.
 - (b) not exceed a *gross floor area* of 70% of the ground floor area.
- (2) If located within the Town Centre Precinct the building *setbacks* must be in accordance with the built form controls of the Town Centre Precinct.

- (3) Separate entries, clearly identifiable from an adjacent road, lane or publicly accessible area, shall be provided for residential and business components.
- (4) Car parking provision for the residential component shall be designed in association with the building's residential entry.
- (5) Air conditioner units, garbage bin storage areas, gas bottles and any other back of house/ utility items required as a result of the business use shall be screened from public view and, adjoining lots.
- (6) Business signage shall be limited to 0.50m x 0.25m.
- (7) A landscape intent shall be prepared for the use. The landscaping shall include predominantly endemic species, although non endemic and exotic species may be utilised for accent/ feature plantings. The Landscape Master Plan shall be used to guide to species selection.

3.3 Multi-Dwelling Housing, Shop-Top Housing, Secondary Dwelling and Dual Occupancy Detached Controls

This section contains controls relating to streetscape, architectural design, *setbacks*, *height*, open space, car parking and fencing. These controls are to be read in conjunction with the general residential controls at **Section 3.1**.

The *Code* provides criteria for assessment of a *secondary dwelling*, *Multi dwelling housing* and *Dual occupancy (detached) dwellings* as *complying development* on a *nominated lot* and on the plan of development as outlined in **Section 2.2**. Where such dwellings do not meet the *complying development* standards, and if other types of *multi-dwelling housing* are proposed, a *development application* must be lodged addressing the controls below. Variations to these controls must be supported by a written justification which demonstrates achievement of the objectives of the relevant controls.

3.3.1 Multi-Dwelling Housing



Figure 3.3.1.1 Multi Dwelling Housing illustrating one site with separate titles sharing a common driveway which might be created by either reciprocal easements or common property



Figure 3.3.1.2 Multiple Dwelling Housing

Objectives

- (1) To provide housing and lifestyle choice.
- (2) To provide higher residential densities compatible with the character of traditional detached dwellings.
- (3) To maximise residential amenity.
- (4) To minimise the number of driveways and garages facing the street.
- (5) To provide adequate landscaped area and low maintenance private open space.
- (6) To ensure climatically-responsible development.
- (7) To facilitate refuse collection.

Controls

- (1) Multiple Dwelling Housing is to be located on a lot nominated on an approved *plan of development* as a multi dwelling lot.

- (2) All Multi-Dwelling Housing, Secondary Dwelling and Dual Occupancy detached *dwelling*s shall be designed so that the access way to the *dwelling* is clearly identifiable from the adjoining public street.
- (3) All *dwelling*s shall provide at least one *habitable room* at ground level adjacent to an external living area, except where site topography makes it impractical. A ground level comprising solely car parking is not acceptable, unless that level is only a part ground level due to the topography of the site.
- (4) Comply with other relevant controls of the *Code* as referenced in **Table 3.3.1.1**. Where a proposal does not achieve the stated control, a variation may be accepted if reasonable justification for the proposed variation to the control has been provided.
- (5) Where a *dwelling* does not have direct road access, provide a refuse collection point for this *dwelling* adjacent to the front boundary.
- (6) The maximum site cover is 45%.
- (7) The communal open space is provided, where the total number of *dwelling*s is greater than 6, at the rate of 15% of the site area, and;
 - (a) Is provided in addition to private open space areas.
 - (b) Has a minimum dimension of 5 metres.
 - (c) Has a maximum gradient not exceeding one in ten.
 - (d) Is designed and located so that it is subject to informal surveillance from *dwelling*s on the site.
 - (e) Is separated from any private areas by a fence or landscaping.
- (8) Covered car parking shall be screened from view from the road or other public land frontage, by the orientation and location of car parking within the development or by use of a garage door or similar shutter device.
- (9) A suitable refuse storage area is to be identified within the site that is visually unobtrusive and is either enclosed on three sides with a screen wall extending 0.2 metres above the height of the refuse receptacles or is screened by dense landscape planting.
- (10) A suitable refuse collection area is to be identified.
- (11) A landscape intent shall be prepared for any allotment where more than 1 *dwelling* is proposed on an allotment. The landscaping shall include predominantly endemic species, although non endemic and exotic species may be utilised for accent/ feature plantings. The Landscape Master Plan shall guide species selection.
- (12) Architectural treatments, building articulation and varied colours and rooflines shall be used to individualise the entry to each *dwelling* and the *dwelling*s. This differentiation shall be achieved whilst maintaining a coherent treatment/style of the buildings/complex).

Note 1. Re-subdivision of each *dwelling* as either Torrens Title or Strata Title is *permitted with consent*.

Note 2. Variation to building height and storeys is not accepted under this development code.

Table 3.3.1.1: Reference Summary of Other Controls relevant to Multi Dwelling Housing

Element	Control
Setbacks to Road Frontages	In accordance with Section 3.3.3
Setbacks to side and rear boundaries	In accordance with Section 3.3.4
Private Open Space (min)	In accordance with Section 3.3.5

<i>Landscaped area (min)</i>	In accordance with Section 3.3.6
<i>Car parking spaces (min)</i>	In accordance with Section 3.1.5

3.3.2 Secondary dwellings and Dual Occupancies Attached



Figure 3.3.2.1 Secondary dwelling (Two residences on one title)

Objectives

- (1) To encourage efficient use of residential land and buildings.
- (2) To provide independent, cost effective accommodation.
- (3) To be compatible with the character of the *principal dwelling*.
- (4) To be compatible with a low-density residential streetscape.

Controls

- (1) The *gross floor area* of one of the *dwellings* shall not exceed 60m², or 40% of the total *floor area* of the *secondary dwelling* and the *principal dwelling*, whichever is the greater.
- (2) Subdivision of the development, including strata subdivision, is not permitted.
- (3) A *secondary dwelling* shall comply with the requirements of the *Building Code of Australia* for a *class 1* or a *class 2* building, where appropriate.
- (4) A separate, discrete entry for *secondary dwellings* may be identifiable from the adjacent street or laneway.
- (5) A *secondary dwelling* may only be developed on a lot nominated for a *dwelling house*.
- (6) In addition to any controls in **Section 3.3.2**, *secondary dwellings* shall be subject to all controls in **Section 3.1** and **Section 3.2** which are applicable to the *dwelling type* of the

principal dwelling located on the lot.

Note 1. By definition a *secondary dwelling* must remain on the same lot as the *principal dwelling*.

This section provides development controls for more than one *dwelling* on a lot, as follows:

3.3.3 Front Setbacks and Articulation Zones for Multi-dwelling Housing, Shop Top Housing, Secondary Dwelling and Dual Occupancy (detached)

Objectives

- (1) To encourage pleasant streetscapes and public domain areas.
- (2) To reduce the visual dominance of *garage* doors and fencing.
- (3) To encourage varied facades through eaves, verandas, balconies and feature elements.
- (4) To facilitate public safety by passive surveillance.
- (5) To allow sufficient space for landscaping adjacent to front boundaries.

Controls

- (1) Front *setbacks* for *multi-dwelling housing* must comply with **Table 3.3.3.1**.

Table 3.3.3.1: Minimum Setbacks to Articulation Zones, Frontage Building Lines and Garage Door Lines for Multi-dwelling Housing

Development Category	Secondary dwelling	Dual Occupancy	Multi Dwelling Housing	Shop Top Housing	Measured to
Primary Road Frontage Articulation Zone	As per the controls applying to the <i>principal dwelling</i> . (see Section 3.2)	2m	3m	0m	<i>outermost projection</i>
Secondary Road Frontage Articulation Zone		1.5m	2.5m	0m	<i>outermost projection</i>
Primary Road frontage building line		4.5m	5m	2m	wall
Secondary Road frontage building line		2.5m	4.5m	2m	wall
Garage door line measured to primary or secondary road frontage		5.5m	6m	not applicable	<i>garage door line</i>

Note 1. See Figure 3.3.3.1 (below) for illustration of frontage *setback* terms.

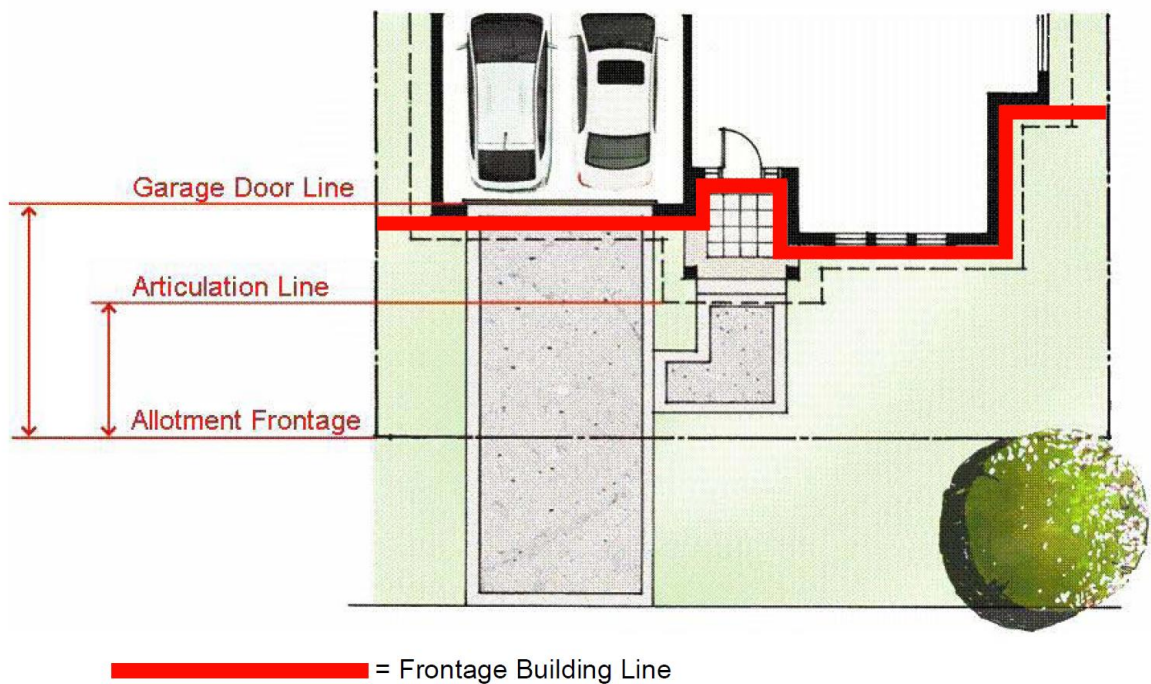


Figure 3.3.3.1 Frontage Setback Terminology

3.3.4 Side and Rear Setbacks for Multi-Dwelling Housing, Secondary Dwelling and Dual Occupancy (detached)

Objectives

- (1) To minimise potential impact of development on neighbouring properties with regard to view, privacy, and overshadowing.
- (2) To encourage the efficient use of land.
- (3) To provide 'breathing space' between buildings or groups of buildings.
- (4) To ensure the provision of equitable access to natural light and ventilation for the occupants of all residential buildings.

Controls

- (1) Buildings must comply with the side and rear *setback* controls at **Table 3.3.4.1** or the *Building Code of Australia*, whichever is the greater.

Table 3.3.4.1: Minimum Side and Rear Setbacks to parent lot boundaries

Development Category	Secondary dwelling	Dual Occupancy	Multi dwelling Housing
Ground Floor Setback to side boundaries -measured to wall unless noted otherwise	As per the controls applying to the <i>Primary dwelling</i> . (see Section 3.2)	0.9 m to OMP	1.2m to OMP
First Floor Setback to side boundaries -including any parts of the building over 4.5m high -measured to wall with a 0.6m maximum eave encroachment permitted, unless noted otherwise		1.5m with privacy screening <i>attached</i> to south and west facing <i>habitable room</i> windows, otherwise 3m	2m with privacy screening <i>attached</i> to south and west facing windows not adjoining a public space, otherwise 4.5m
Second Floor Setback to side boundaries -if permitted -measured to wall unless noted otherwise		2m with privacy screening <i>attached</i> to south and west facing <i>habitable room</i> windows, otherwise 3m	2.5m with privacy screening <i>attached</i> to south and west facing windows not adjoining a public space, otherwise 4.5m
Rear Boundary Setback -applies to ground, first and second floors -excluding rear lanes -measured to wall unless noted otherwise		3m	4m

3.3.5 Private Open Space

Objectives

- (1) To provide usable *private open space* for outdoor recreation for all *dwellings*.
- (2) To provide high levels of residential amenity.
- (3) To facilitate solar access to living areas and *private open spaces*.
- (4) To ensure minimum standards of sunlight access for adjoining *dwellings*.

Controls

- (1) All *dwellings* require *private open space* (POS) consistent with **Table 3.3.5.1** and no steeper than 1:10 gradient. On steeper sites, POS must be terraced or provided on a deck to ensure it is a functional recreation space.
- (2) POS is to be located having regard to *dwelling* design, allotment orientation, adjoining *dwellings*, landscape features, topography and preferred POS locations illustrated at **Figure 3.3.5.1**.
- (3) The POS must be contiguous with and accessible from the main living area of a *dwelling*.
- (4) *Outdoor rooms* and the like may be included in the calculation of POS.
- (5) Where the POS is a patio, balcony or roof-top area, it shall be provided with a solid balustrade,

a solid or translucent fence or landscaped screen of a minimum 1m in *height*, and be directly accessible from the living area of the *dwelling*.

Table 3.3.5.1: Private Open Space (POS)

Effective Lot Width	Shop Top Housing	Multi Dwelling Housing	Dual Occupancy
Private Open Space (POS) at ground level	Min. 15m ² with a min. dimension of 3m and provided with adequate privacy or	Min. 20m ² with a min. dimension of 3m and provided with adequate privacy or	25m ² with a min. dimension of 3m and provided with adequate privacy
Private Open Space (POS) at first floor level for a <i>first floor living solutions</i>	Min. 6m ² if provided as a balcony or rooftop with a min. dimension of 2.1m	Min. 12m ² if provided as a balcony or rooftop with a min. dimension of 3m	Not applicable

Note 1. The term “Effective Lot Width” is defined in the Glossary (Appendix A)

Note 2. *Private open space (POS)* means the portion of private land which serves as an extension of the *dwelling* to provide space for relaxation, dining, entertainment and recreation. It includes an *outdoor room*.

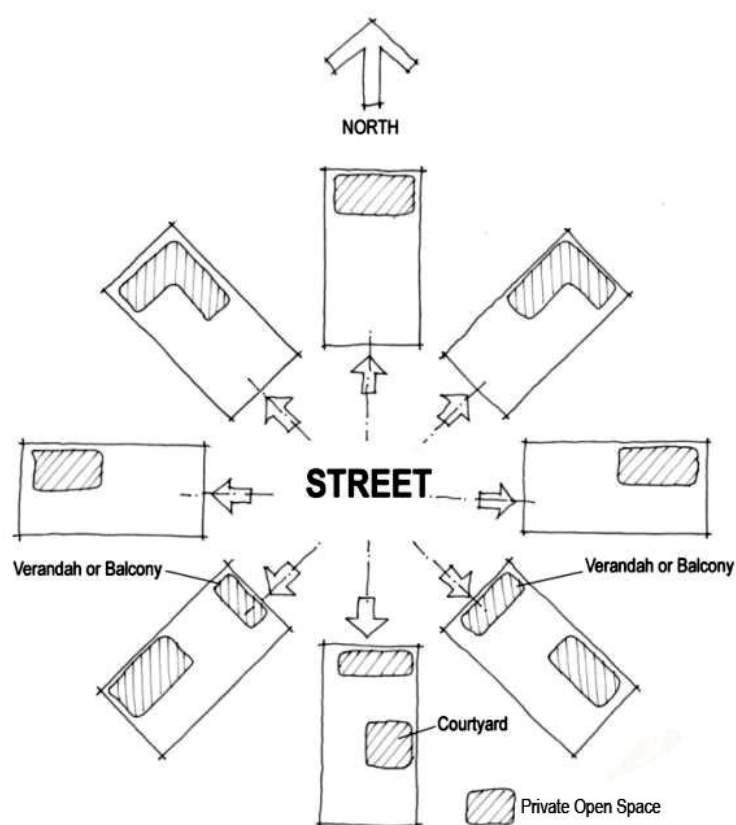


Figure 3.3.5.1 Private Open Space Location Principles

3.3.6 Landscaped Area

Objectives

- (1) To enhance the landscape character of Cobaki Estate.
- (2) To limit impermeable surfaces.

- (3) To provide for *deep planting areas* in residential precincts.
- (4) To provide amenity and privacy.
- (5) To enhance sustainable building design.

Controls

- (1) Dwellings must comply with the minimum landscaped area requirements) at Table 3.3.6.1.

Table 3.3.6.1: Landscaped Area

Dwelling Type	Dual Occupancy	Multi Dwelling Housing
Minimum Landscape Area	20% including any required for POS and including a minimum of 10% <i>deep planting area</i>	30% including any required for POS and including a minimum of 10% <i>deep planting area</i>

Note 1. The requirements are expressed as percentages of lot area.

Note 2. The *landscaped area* means any part of a lot, at ground level, that is permeable and consists of soft landscaping, pebbles, turf or planted areas and the like. It does not include driveways, parking areas, hard paved drying yards or other service areas, swimming pools, tennis courts, undercroft areas, roofed areas (excluding eaves less than 0.6m to fascia board), *outdoor rooms*, balconies, rooftop gardens, terraces, decks, verandas and the like.

Note 3. *Landscaped area* may include other required areas such as *Private Open Space* and/or *setbacks*.

Note 4. Landscaped open space may include other required areas such as *private open space* and/or *setbacks*.

Note 5. All landscaping in front of the buildings line shall generally utilise endemic species and/or species as identified in the Landscape Master Plan. A minimum of one (1) 100L tree or two (2) 200L palm shall be installed in front of the building line of each dwelling fronting the street and generally be a minimum of 2- 3m from a side boundary or the dwelling

- (2) A landscape intent shall be prepared for any allotment less than 400m or where more than 1 dwelling is proposed on an allotment. The landscaping shall include predominantly endemic species, although non endemic and exotic species may be utilised for accent/ feature plantings. The Landscape Master Plan shall be used to guide plantings.

3.3.7 Residential Flat Building and Tourist and Visitor Accommodation



Figure 3.3.7.1 Residential Flat Building and Tourist and Visitor Accommodation plan



Figure 3.3.7.2 Residential Flat Building and Tourist and Visitor Accommodation elevation

Objectives

- (1) To encourage efficient use of residential land close to amenities, work opportunities, and/or transportation hubs.
- (2) To provide housing and lifestyle choice with shared amenities and recreation facilities.
- (3) To maintain optimum levels of residential amenity, security and privacy.
- (4) To provide views over public spaces and *recreation areas*.
- (5) To ensure adequate levels of private and communal open space.
- (6) To provide privately owned but communally shared landscaping.
- (7) To facilitate ecologically sustainable development.
- (8) To ensure articulated built form when viewed from street and public places.
- (9) To provide landscaped interface with street and public places.
- (10) To minimise impact on adjoining properties.
- (11) To facilitate refuse collection.

Controls

- (1) *Apartment and tourist accommodation* Development may be undertaken on *development lots*.
- (2) The maximum *site cover* is 40% in the Residential Domain and 60% in the Town/Neighbourhood Centre Domain

- (3) The minimum communal open space is 20% (of the site area) in the Residential Domain and 10% (of the site area) in the Town/Neighbourhood Centre Domain, and
 - (a) is provided in addition to private open space areas.
 - (b) has a minimum dimension of 5 metres.
 - (c) has a maximum gradient not exceeding one in ten.
 - (d) is designed and located so that it is subject to informal surveillance from dwellings on the site.
 - (e) is separated from any private areas by a fence or landscaping.
- (4) The main pedestrian access from the street to the building is easily identified.
- (5) Comply with other relevant controls of the *Code* as referenced in **Table 3.3.7.1**. Where a proposal does not achieve the stated control, a variation may be accepted if reasonable justification for the proposed variation to the control has been provided.
- (6) Covered car parking shall be screened from view from the road or other public land frontage, by use of a garage door or similar shutter device.
- (7) A suitable refuse storage area is to be identified within the site that is visually unobtrusive and is either enclosed on three sides with a screen wall extending 0.2 metres above the height of the refuse receptacles or is screened by dense landscape planting.
- (8) A suitable refuse collection area is to be identified.

Note 1. Developments comprising 3 or more storeys and 4 or more dwellings must also address the requirements of *State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development*.

Note 2. Re-subdivision of each *dwelling* using Strata Title is *permitted with consent*.

Note 3. Variation to building height and storeys is not accepted under this development code.

Table 3.3.7.1: Reference summary of other controls relevant to apartments and tourist accommodation

Element	Control
Setbacks to Road Frontages	In accordance with Section 3.3.1
Setbacks to side and rear boundaries	In accordance with Section 3.3.2
Private Open Space (min)	In accordance with Section 3.3.3
Landscaped area (min)	In accordance with Section 3.3.4
Car parking spaces (min)	In accordance with Section 3.1.5

3.3.8 Shop Top Housing



Figure 3.3.8.1 Shop-top Housing

Objectives

- (1) To promote mixed uses in Neighbourhood and Town Centres.
- (2) To maximise residential amenity.
- (3) To activate streets.
- (4) To ensure ecologically sustainable development.
- (5) To promote articulated buildings when viewed from streets and public places.
- (6) To facilitate refuse collection.

Controls

- (1) Shop Top Housing are to be located on a lot nominated on an approved *plan of development* as a Shop Top Housing lot.
- (2) Comply with other relevant controls of the *Code* as referenced in **Table 3.3.8.1**. Where a proposal does not achieve the stated control, a variation may be accepted if reasonable justification for the proposed variation to the control has been provided.
- (3) Car parking shall be accessed from a rear lane where practical, or from a single, shared driveway on a *secondary road* frontage.
- (4) The ground floor level shall be used predominantly for Commercial or Retail purposes and no residential use is to have ground floor frontage to a street of a commercial nature, other than a pedestrian access.
- (5) A refuse collection point shall be provided at a rear laneway boundary where practical or in a screened position located on a *secondary road* frontage.

Note 1. Re-subdivision of each *dwelling* by Strata Title is *permitted with consent*.

Note 2. Variation to building height and storeys is not accepted under this development code.

Table 3.3.8.1: Reference summary of other controls relevant to Shop-top Dwellings

Element	Control
Setbacks to Road Frontages	In accordance with Section 3.3.1
Setbacks to side and rear boundaries	In accordance with Section 3.3.2
Private Open Space (min)	In accordance with Section 3.3.3
<i>Landscaped area</i> (min)	In accordance with Section 3.3.4
Car parking spaces (min)	In accordance with Section 3.1.5

3.3.9 Seniors Housing



Figure 3.3.9.1 Seniors housing - plan



Figure 3.3.9.2 Seniors housing

Objectives

- (1) To establish high quality *seniors housing* with on-site recreational and administration facilities to serve an ageing population.
- (2) To maintain optimum levels of residential amenity and privacy.
- (3) To increase housing choice to meet the needs of seniors or people with a disability.

- (4) To ensure adequate private and communal open space.
- (5) To provide *landscaped area*.
- (6) To facilitate ecologically sustainable development.
- (7) To ensure articulated built form when viewed from street and public places.
- (8) To provide landscaped interface with street and public places.
- (9) To minimise impact on adjoining properties.
- (10) To facilitate refuse collection.

Controls

- (1) *Seniors housing* Development may be undertaken on *development lots*
- (2) Comply with other relevant controls of the *Code* as referenced in **Table 3.3.9.1**. Where a proposal does not achieve the stated control, a variation may be accepted if reasonable justification for the proposed variation to the control has been provided.
- (3) The development must have regard to provisions regarding accessibility and useability of *SEPP (Housing for Seniors or People with a Disability) 2004*.
- (4) Covered car parking shall be screened from view from the public street and public spaces subject to complying with accessibility provisions.
- (5) A refuse collection area shall be provided in an appropriate location.

Note 1. Re-subdivision of each *dwelling* using Strata Title is *permitted with consent*.

Note 2. Variation to building height and storeys is not accepted under this development code.

Table 3.3.9.1: Controls for Seniors Housing

Element	Control
Setbacks to Road Frontages	In accordance with Section 3.3.1
Setbacks to side and rear boundaries	In accordance with Section 3.3.2
Private Open Space (min)	In accordance with Section 3.3.3
<i>Landscaped area</i> (min)	In accordance with Section 3.3.4
Car parking spaces (min)	In accordance with Section 3.1.5

4.0 TOWN CENTRE AND NEIGHBOURHOOD CENTRES

This section outlines the objectives and design principles relating to the Cobaki Estate Town Centre and Neighbourhood Centres.

4.1 Development Within the Cobaki Estate Town Centre

Objectives

- (1) To create a vibrant town centre as the community and economic focal point of Cobaki Estate by providing a concentration and variety of retail, business office, dining, medical, community and entertainment uses.
- (2) To co-ordinate the detailed design of the Town Centre to achieve high quality urban design and pleasant streetscapes with active frontages.
- (4) To create a walkable and accessible pedestrian-oriented centre lower priority for car parking.
- (5) To provide opportunities for residential development above non-residential uses below.

Controls

- (1) Provide a range of *building heights* to a maximum of three *storeys*.
- (2) Define streets and open spaces by uniformly building to the primary street frontage, and providing a consistent street *wall height*.
- (3) Side and rear *setbacks* are to be in accordance with the *plan of development*.
- (4) Large-format *retail premises* and decked parking areas must be 'sleeved' with active uses to the *primary road* frontage.
- (5) Blank walls visible from the public domain are not permitted.
- (6) Locate active uses at ground level at the *primary road* frontage and principle pedestrian routes.
- (7) Locate all residential development above ground floor non-residential uses and design all residential in accordance with the *shop-top dwelling* controls of the *Code*.
- (8) High amenity pedestrian streetscapes are to be provided through the Town Centre, including continuous ground level weather protection for pedestrians is to be provided along primary frontages.
- (9) Provide a high quality landscape design with each development within the town centre precinct.
- (10) Provide signage envelopes within the building design to co-ordinate the appearance of signage.
- (11) Car parking for non-residential uses with the Town Centre is to be provided in accordance with *Tweed DCP 2008*, Section A2, with the exception of a reduced customer car parking rate to reflect opportunities for shared parking provision for complementary uses within the Town Centre as follows:
 - (i) the minimum number of customer car parking spaces may be reduced by up to 20%.
- (12) Wherever possible, vehicular access, waste storage, servicing and loading facilities, buildings within the Town Centre is to be provided from secondary frontages.
- (13) *Basement*, *semi-basement* or decked parking is preferred over large expanses of at-grade parking. An exception may be made for uses such as a supermarket-based shopping centre, subject to an assessment of the design and landscape appearance.



Figure 4.1.1: Examples of good town centre development

4.2 Development Within Cobaki Estate Neighbourhood Centres

Objectives

- (1) To create vibrant, mixed use neighbourhood centres with a range of small-scale retail, business and community uses to serve the needs of people who live and work in the surrounding neighbourhood.
- (2) To ensure buildings and spaces of high design standards and amenity.
- (3) To provide opportunities for medium density housing within neighbourhood centres.

Controls

- (1) Provide a range of *building heights* to a maximum of three *storeys*.
- (2) Define streets and open spaces by uniformly building to the primary street frontage, and providing a consistent street *wall height*.
- (3) Side and rear *setbacks* are to be in accordance with the *plan of development*.
- (4) Blank walls visible from the public domain are not permitted.
- (5) Locate active uses at ground level at the *primary road* frontage and principle pedestrian routes.
- (6) Residential development is to be located behind or above ground floor non-residential uses.
- (7) Provide a high quality landscape design as part of development within the neighbourhood centre.
- (8) Provide signage envelopes within the building design to co-ordinate the appearance of signage.
- (9) Car Parking for non-residential uses with the Neighbourhood Centre is to be provided in accordance with *Tweed DCP 2008*, Section A2, with the exception of a reduced customer car parking rate to reflect opportunities for pedestrian and cycle access to these facilities by residents as follows:
 - (i) the minimum number of customer car parking spaces may be reduced by up to 30%.
- (11) At-grade parking areas must be appropriately designed to minimise the visual impact of the car park by locating the parking area to the side or rear of the building or by providing an

appropriate landscaped appearance.



Figure 4.2.1: Examples of good Neighbourhood Centre Development

5.0 SUBDIVISION CONTROLS

This section contains objectives and development controls for the subdivision of land within Cobaki Estate, including neighbourhood and subdivision design, streetscape, street network and design standards, pedestrian, cycleway public transport networks.

The flow chart in Section 1.6 illustrates the subdivision process and the documents required to be lodged with the first *development application* for the site to be lodged with Council.

The first subdivision *development application* must include a *precinct plan*, a *plan of development and design guidelines*.

The plan of development must comply with the general subdivision provisions (s 5.4) and the nominated lots provisions (s 5.5).

5.1 Precinct Plan

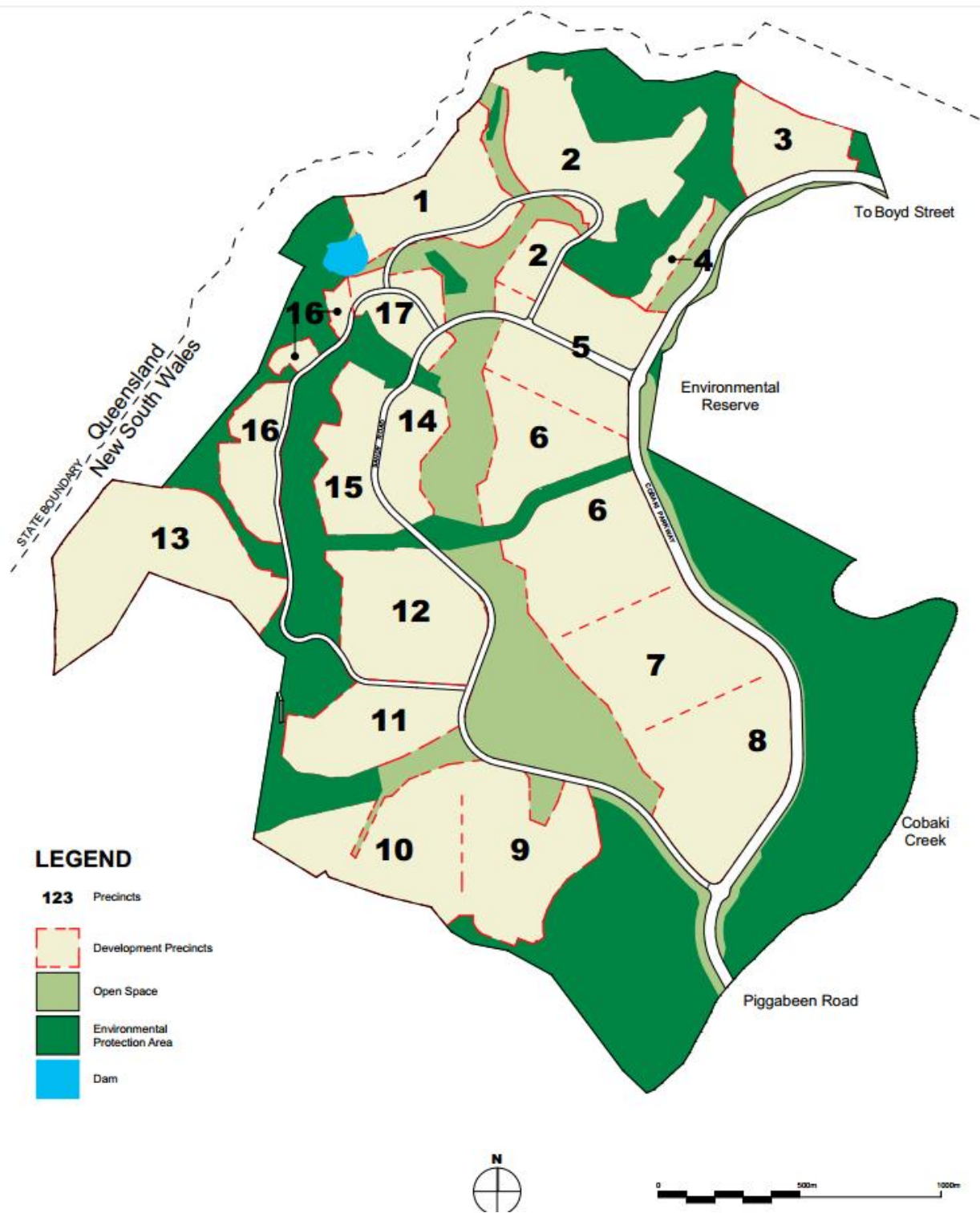
Objectives

- (1) To ensure the orderly development of the land and assist in the co-ordinated programming and provision of necessary infrastructure and casual open space.
- (2) To identify the position of Casual Open Space within the subdivision design of the Precinct.
- (3) Provide a planning framework for subsequent plans of development and *nominated lots*.

Controls

- (1) Submit a precinct plan with the first development application for subdivision of each precinct (location illustrated in **Figure 5.1.1**).
- (2) Provide a permeable, hierarchical street pattern that relates to the original topography, and facilitates 'way' finding.
- (3) Provide a main street, focal point and identifiable public domain.
- (4) Provide lot sizes and configurations to support a range of housing types that integrate into the street pattern.
- (5) Identify an open space network.
- (6) Connect parks, public spaces, main streets, services, infrastructure and natural features.
- (7) Use streets and footpaths to define the edges to public open spaces.
- (8) Provide water sensitive urban design within appropriate open spaces.
- (9) Identify the proposed staging of subdivision within each precinct.
- (10) Identify an estimated development yield.

Precinct Location Plan



5.2 Relationship to Tweed Shire Council Development Control Plan 2008 Section A5 - Subdivision Manual

Objectives

- (1) To clarify the relationship of the subdivision controls of the *Code* with the subdivision controls of *Council* Development Control Plan 2008 Section A5 - Subdivision Manual.
- (2) Where water and sewer provision is provided under a WIC Act License, that Authority is not bound by any council standard in relation to the provision, except when connecting to public infrastructure.

Controls

- (1) This *Code* adopts the following provisions of Tweed Development Control Plan 2008 Section A5 – Subdivision Manual
 - Part A5.4 Urban Subdivision Design Guidelines & Development Standards, except where varied by this *Code*
 - Part A5.6 The Assessment & Decision Making Process
 - Part A5.7 Implementing a Subdivision Consent
 - Appendix A - Subdivision Works - Development Design Specifications
 - Appendix B - Subdivision Works - Development Construction Specifications
 - Appendix C - Subdivision Works, Compliance Certification except as otherwise approved by *Council*
 - Attachment C1 - Subdivision Works, Compliance Certificate
 - Appendix D - Subdivision Infrastructure Inspections
 - Appendix E - Recommended Buffers
 - and the Development Design Specifications and Development Construction Specifications referred to in Appendix A and Appendix B above.

Except where varied by the departures contained in Section 5 of this *Code*.

References to "*development applications*" in A5 may also be deemed to be references to Part 3A "Project Applications" except where such references may be inconsistent with Part 3A of *the act*.

5.3 Town Centre and Neighbourhood Centre Subdivision Design Controls

Objectives

- (1) To create subdivision within centres which provides high amenity streetscapes focused on a main street which are highly accessible, pedestrian-oriented and provide quality public spaces.

Controls

- (1) Incorporate a pedestrian-focused main street as the focal point.
- (2) Provide an interconnected street block network with block sizes and mid-block connections that maximise safe pedestrian access within and across the centre to and from main pedestrian generators.
- (3) Create a street layout that promotes efficient vehicular access to and within the Town Centre.

- (4) Vehicular lanes should be used to provide access to parking areas, loading docks and waste collection areas.

5.4 General Subdivision Controls

Objectives

- (1) To establish precinct neighbourhoods based on 300-600 *dwelling*s with efficient pedestrian and cycleway link to trip generators.
- (2) To maximise the number of lots suitable for *complying development* housing by nominating lots which meet specified minimum requirements for residential building types.

Controls

- (1) Provide self-contained residential neighbourhoods with links to *schools*, retail, and community uses, and open space.
- (2) Provide pedestrian and cycle networks to connect each residential neighbourhood and to provide connections to public open space, public transport nodes, and education and community facilities.
- (3) Increase residential density close to town and neighbourhood centres, *schools*, major open space and other public facilities.
- (4) Provide Street designs with generally no more than 3 corners from the furthestmost lot to the neighbourhood entrance.
- (5) Design local streets to discourage through-traffic.
- (6) Limit vehicle movements to less than 3000 vehicles per day per neighbourhood entrance road (300 – 600 *dwelling*s). Larger neighbourhoods may require a neighbourhood collector road to cater for vehicular movements (refer to **Figures 5.4.1 and 5.4.2**).
- (7) Provide a diverse range of orthogonal residential lots and frontages with minimal use of *battle-axe lots*.
- (8) Comply with the minimum lot sizes and *effective lot width* for *complying development* in **Table 5.4.1**.
- (9) On lots where a zero lot line(s) are permitted, the lot's zero lot alignment shall be shown on the approved *plan of development*. Section 88B instruments shall be created for the subject and adjoining lots to indicate the zero lot line location, and all other controls in **Section 5.6**.
- (10) Lots nominated for attached dwellings must have a rear frontage to open space which contains an adjacent public footway.
- (11) Easements for public infrastructure (sewerage, stormwater drainage) within residential lots are to provide for at least one infrastructure connection to a public road or reserve.
- (12) An on-street parking plan is required with the first *development application* for subdivision to demonstrate the availability of on-street car parking for each *nominated lot* type at the rates specified in **Table 5.4.1**. The requirement and acceptance of designated on street car parking may be varied by a DRP Pre- Approval Certificate.
- (13) Direct vehicular access from any lot to a distributor road is not permitted.

Access Network Plan and Potential Bus Route

Notes:

* In Accordance With Tweed Shire Council Standards

In accordance with TSC s94-12 90% of allotments are within 400m straight line distance of a potential bus route (Actual 93%)

No connection available to Tweed Shire Council Cycleway Network

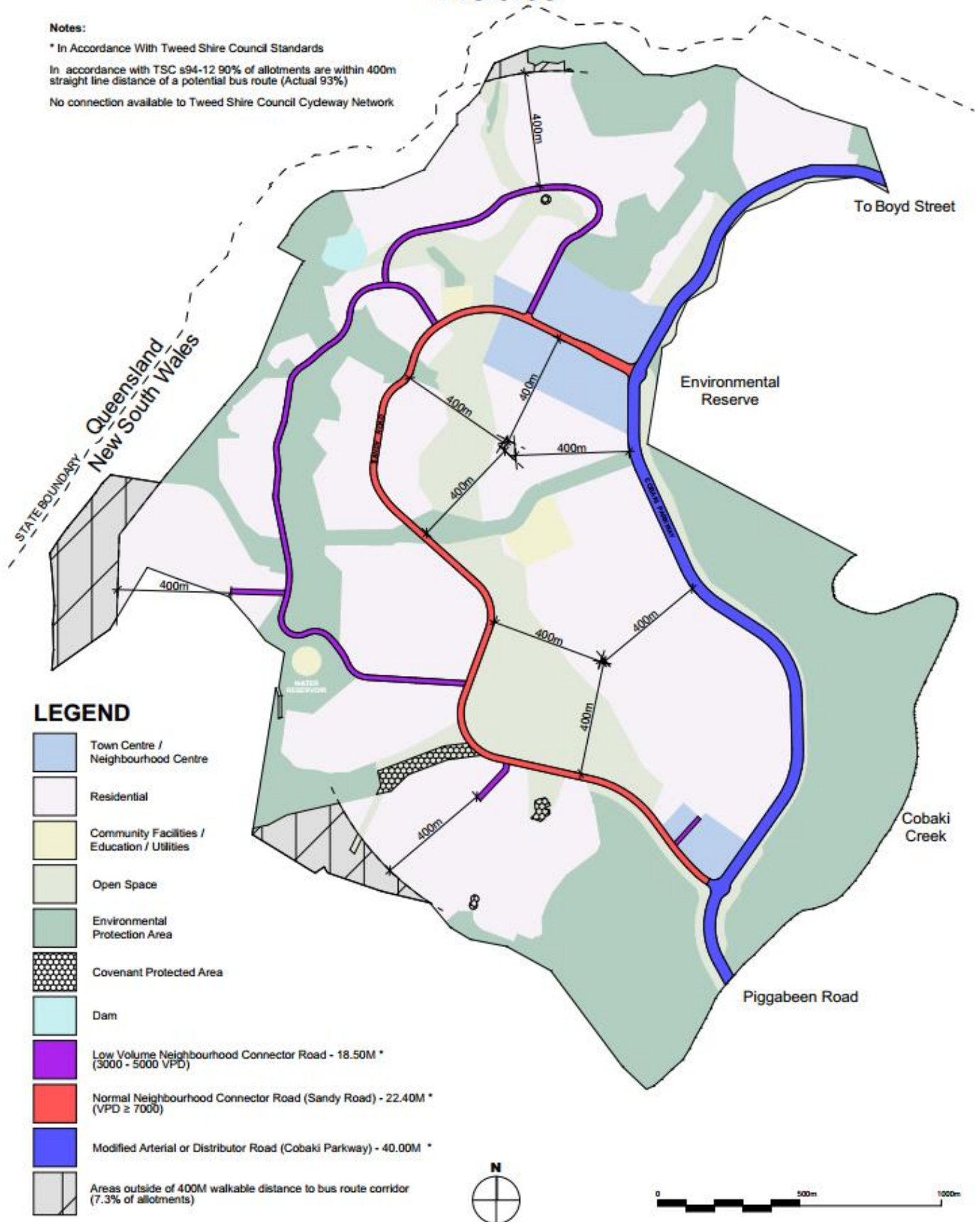


Figure 5.4.1: Road Hierarchy – Broader Area

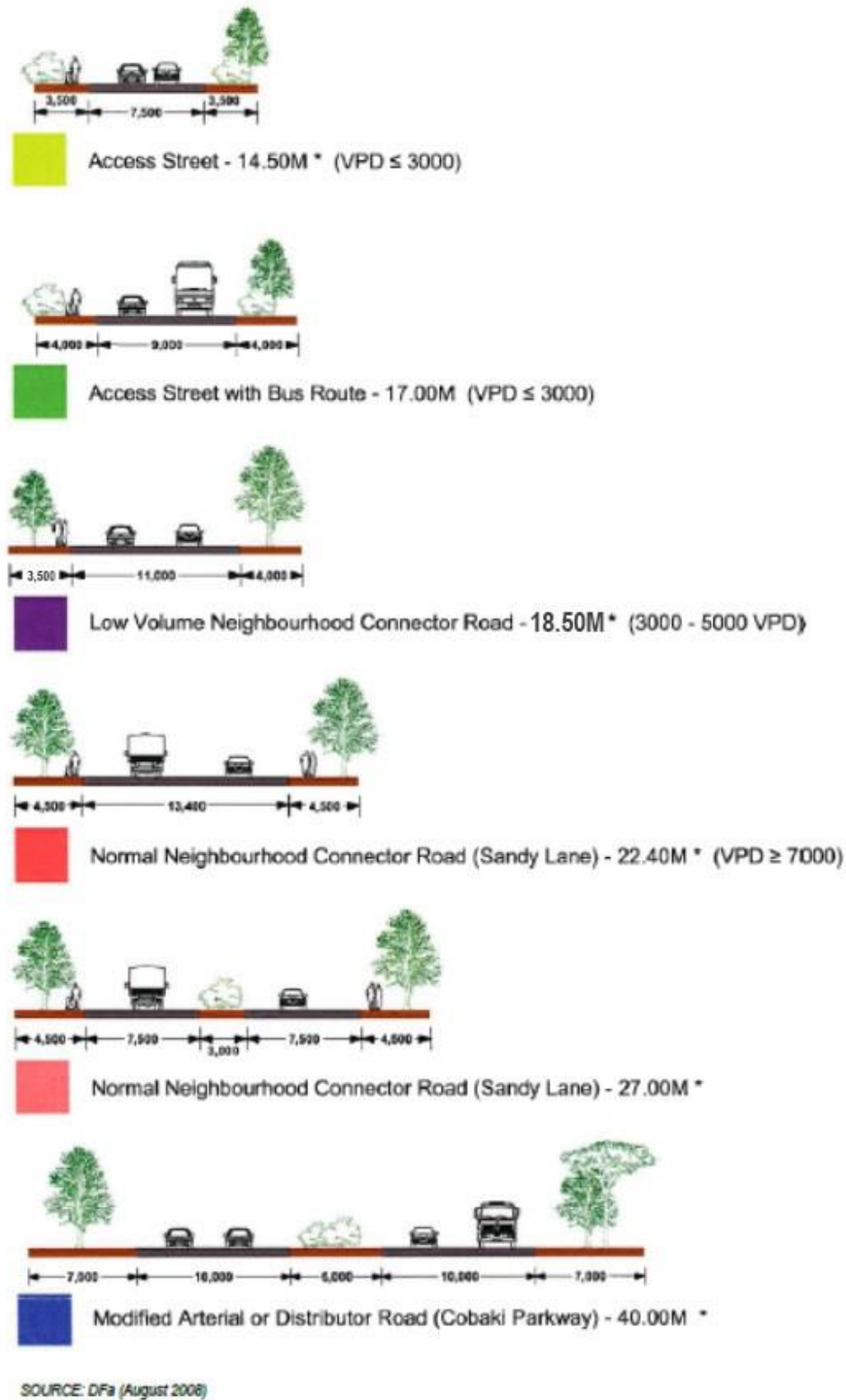


Figure 5.4.2: Road Hierarchy – Broader Area

Table 5.4.1: Minimum Area and Dimension Controls for New Lots

Development Type	Minimum Lot Size	Minimum Effective Lot Width	Minimum Effective Lot Width Corner Allotment	Minimum Depth	Comment	On Street Parking (per dwelling)
Dwelling House	300 m ²	10m	12.5m	30m	<p>Must be nominated as dwelling house lots on <i>plan of development</i>. Built to boundary wall must be nominated on the plan of development.</p> <p>For further controls in relation to the proposed housing type refer to Section 3.2 Dwelling house, Semi-detached Dwelling and Attached Dwelling in this document.</p>	1
Semi-detached dwelling	300m ²	10m	12.5m	30m	<p>Must be nominated as semi-detached dwelling lots on plan of development. Built to boundary wall must be nominated on the plan of development. May be resubdivided in accordance with Part 5.11 or Part 5.12.</p> <p>For further controls in relation to the proposed housing type refer to Section 3.2 Dwelling house, Semi-detached Dwelling and Attached Dwelling in this document.</p>	1
Attached Dwelling	225m ²	7.5m with front access	9m with front access	30m	<p>Must be nominated as Zero Lots on <i>plan of development</i>/ DA for subdivision.</p> <p>Must demonstrate that allowable building envelope represents a minimum 125 m² per dwelling.</p> <p>For further controls in relation to the proposed housing type refer to Section 3.2 Dwelling house, Semi-detached Dwelling and Attached Dwelling in this document.</p>	0.5
Dual Occupancies	400m ²	12.5m	15m	30m	<p>May be re subdivided in accordance with Part 5.11 or Part 5.12.</p> <p>For further controls in relation to the proposed housing type refer to Section 3.3 Multi-Dwelling Housing, Secondary Dwelling and Dual Occupancy.</p>	1
Shop Top Housing	100m ²	7m	9m	20m	<p>Must be nominated as Shop Top Housing Lots in <i>plan of development</i>/DA for subdivision.</p> <p>Lots must have vehicular access from rear, be on a street containing commercial</p>	Nil

Development Type	Minimum Lot Size	Minimum Effective Lot Width	Minimum Effective Lot Width Corner Allotment	Minimum Depth	Comment	On Street Parking (per dwelling)
					uses and be located close to or within a neighbourhood or town centre precinct. For further controls in relation to the proposed housing type refer to Section 3.3 Multi-Dwelling Housing, Shop Top Housing, Secondary Dwelling and Dual Occupancy.	
Multi Dwelling Housing/Seniors Housing	1000m ²	30m	30m	30m	May be re subdivided in accordance with Part 5.11 or Part 5.12. For further controls in relation to the proposed housing type refer to Section 3.3 Multi-Dwelling Housing, Shop Top Housing, Secondary Dwelling and Dual Occupancy.	0.25
Neighbourhood Centre	900m ²	30m		30m	May be re subdivided with consent in accordance with Part 5.11 or Part 5.12.	Nil
Town Centre	Not applicable	Not applicable	Not applicable	Not applicable	Will be subject to a <i>plan of development</i> / DA for subdivision creating <i>development lots</i> with development controls.	Nil
<i>Development lots</i> (multi-dwelling housing)	1,000m ²	30m		30m	Applicable to multi dwelling housing, seniors housing, tourist and visitor accommodation, residential flat building dwelling. May be re subdivided with consent in accordance with Part 5.11 or Part 5.12.	Nil

Note 1. The minimum lot sizes and frontages for *complying development* in **Table 5.4.1** apply instead of the geometric requirements in Tables A5-9.1 to A5-9.10, Tweed DCP 2008 - A5 Subdivision Manual.

Note 2. The required on street car parking per dwelling may be provided on site i.e. driveway or provided not directly in front of the lot but within 100m of the frontage. For further controls in relation to off street parking refer to off street parking requirements within Table 2.2.14.1.

5.5 Nominated Lot Provisions

Objectives

- (1) To streamline the *dwelling* approvals process by nominating lots for a particular *dwelling type* that may be undertaken on that lot as *complying development*.
- (2) To adopt a master planned approach to neighbourhood planning, design and density.
- (3) To protect the amenity of the development and to provide certainty to land owners as to surrounding planned development in the neighbourhood.

Controls

- (1) Mark on a *plan of development lots* which are intended for the future development of a particular *dwelling type* (*dwelling houses*, *semi detached dwellings*, *attached dwellings*, *dual*

occupancy, multi dwelling housing and shop top housing) and on which that nominated dwelling type may be undertaken as complying development.

- (2) Mark on a *plan of development* the number of bedrooms per *dwelling* and per lot.
- (3) Lots less than 300m² and/or less than 15m frontage (measured at the *frontage building line*) must not have a cross fall and slope to the rear greater than 10%.
- (4) Lots for *townhouse dwellings, villa dwellings, apartment, tourist accommodation or seniors housing* must be nominated as *development lots* on the *plan of development*.
- (5) Development Lots must be provided with roads, drainage (including downstream drainage to a lawful point of discharge), service connections and easements sufficient to cater for the future development of the *development lot* and the surrounding land.

5.6 Plan of Development Requirements

Objectives

- (1) To identify the position of Nominated Lots within a subdivision.
- (2) To provide the key controls which are necessary to achieve the effective master planning of the nominated lots.
- (3) To identify vehicular access location for each lot.
- (4) To provide the landscape and fencing intent for key locations of the subdivision.

Controls

- (1) A Plan of Development must be submitted with all future development applications for subdivision on the site and include the following information where applicable.
 - (a) location and width of Asset Protection Zones; and
 - (b) Level of construction required for dwellings/buildings adjacent to Asset Protection Zones in accordance with *Planning for Bushfire Protection 2006* and *Australian Standard 3959 – 1999 – Construction of Building in Bushfire Prone Areas*; and
 - (c) type of development permissible or intended for each lot, for example, dwelling house, seniors housing, attached dwelling; and
 - (d) finished floor levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's *Development Control Plan – Section A3 – Flood Liable Land* (or any replacement document); and
 - (e) the type of development nominated on each lot which may be undertaken as Complying development; and
 - (f) the location of development lots and the maximum number of dwellings and bedrooms intended in the future development of the development lot; and
 - (g) setbacks for all buildings and structures, including garages; and
 - (h) zero lot line locations if relevant; and
 - (i) the location of preferred vehicular street access and driveway locations for all dwellings; and
 - (j) the location of *private open space* for each lot; and
 - (k) the type of fencing to be provided to roads and other public land frontages; and
 - (l) the lots on which 3 or >3 storey building height is permissible other than those which may be determined on merit by DRP; and
 - (m) The location of public open space; and

- (n) The location of specific landscaping to meet the design guidelines for each precinct; and
- (o) Gateways or entry statements; and
- (p) A reference to the Design Guidelines which apply to the precinct.

Note: Any lot except for a development lot, or lot within the town centre, may be development for a dwelling house, despite being nominated on the POD for another residential accommodation type.

5.7 Design Guidelines

Design Guidelines form part of a *Plan of Development* for each subdivision of the site; and must be submitted with a *development application* for subdivision. The *Design Guidelines* are in addition to the Part B controls of the *Code*. The *Design Guidelines* will be implemented and administered by the owner of the land that forms the subject of the subdivision *development application* by a Section 88B instrument (under the *Conveyancing Act 1919*).

The *Design Guidelines* must be consistent with the *Code*. The *Design Guidelines* will be used by the *Design Review Panel* (see Section 5.8 below) in assessing *development applications* and *complying development*.

Objectives

- (1) To identify flexible, merit-based design controls based on the vision and development objectives of the *Code*.
- (2) To reduce the need for planning approvals by expanding *Complying Development* to include merit-based assessments by the *Design Review Panel*.
- (3) To allow issues of merit to be considered and integrated into the development process.
- (4) To provide variety of design within a consistent application of design intent for each precinct or neighbourhood.
- (5) To provide the vehicle to establish a distinct design character for each precinct or neighbourhood.
- (6) To provide a mechanism to accommodate changing community aspirations, the evolving character of local context, new construction techniques and lifestyle trends over time.
- (7) To encourage the maximisation of the potential of each site by providing guidance in the development process, particularly in relation to the understanding of and compliance with the *Code*.
- (8) To enhance the predictability of future surrounding development.
- (9) To facilitate the orderly development of the site. .
- (10) To provide specific performance criteria for the design of housing on sloping sites.

Controls

- (1) The *Design Guidelines* must outline criteria for the following issues, unless those issues are not relevant to the *development*.
- (2) Architectural and streetscape design and facades:

- (a) entry expression,
- (b) scale and treatment of garages,
- (c) landscaped frontages, including hardstand, siting and materials,
- (d) variations in scale,
- (e) articulation of (recessed and projecting) architectural elements,
- (f) mix of building materials and finishes,
- (g) the height of houses in relation to the level and topography of the street and surrounding properties,
- (h) awnings, hoods, louvres or other window features,
- (i) the inclusion of permissible architectural elements within the articulation zone, and
- (j) the landscape treatment of uncovered car parking spaces.

(3) Fencing:

- (a) location of fencing and fencing types,
- (b) mandatory transparent style fencing to most public land (open space) frontages not subject to acoustic, privacy or retaining concerns,
- (c) the coordination between adjoining lot owners and timing of the installation of fencing,
- (d) the interface of fencing with built-to boundary construction/

(4) Built form:

- (a) height and built form controls to ensure design variety and articulated building mass
- (b) building designs addressing fenestration, shading, roof pitch and roof form including hips, gables, skillions, curves and flat roofs with parapet walls,
- (c) variations in streetscape presentation where repeated plan layouts are in proximity to one another, including roofline, materials, colours and features,
- (d) exclusion of undesirable colours and/or materials, including those of high embodied energy/volatile organic compounds (VOC) content, high reflectivity, high maintenance and/or highly contrasting in context,
- (e) articulation of multi-storey structures in the vertical plane, and
- (f) screening of understoreys of elevated structures.

(5) Dwelling height, massing and siting:

- (a) the preferred circumstances on the site for the location of two and three storey dwellings,
- (b) limitations to the of length of unarticulated walls in either the horizontal or vertical plane,
- (c) height of building elements such as eaves and balconies,
- (d) minimum sizes and locations of courtyards enclosed by built-to-boundary walls,
- (e) integration of orientation, solar access, views, access, and topography,
- (f) design provisions for lots with a gradient greater than 10%, similar to *Tweed DCP Development Design Specification D6 - Site Regrading*, and *Tweed DCP - A1 Residential and Tourist Development Code*, and
- (g) presentation of facades fronting public areas other than roads (parks, public areas), treatment and screening of public areas, private recreation and utility areas.

(6) Privacy:

- (a) location of windows (including sill heights) and balconies in relation to the windows, balconies and designated *private open spaces* of adjoining lots,
- (b) location, type and extent of privacy screening for the nominated or default *private open spaces*, including balconies of adjoining properties;
- (c) landscaping to enhance privacy,
- (e) pergolas, shade sails, and other measures to provide privacy for sloping lots,
- (f) location, type, height and extent of fencing forward of the building line required for the screening of *private open spaces* oriented towards a road or public land frontage.

(7) Landscaping in the private realm:

- (a) palette of permitted and excluded plant species, including turf,
- (b) location and minimum area of landscaping to the streetscape and rear yards, including the minimum number of trees and/or plants per lot,
- (c) landscaping as a screening or defining device,
- (d) maintenance of landscaping
- (e) landscape materials specification, including garden edges, impermeable surfaces, mulch, soil, soil depth and retaining walls, and
- (f) any areas to be kept clear of landscaping and equipment for the preservation of view corridors, vehicle sight lines, solar access, or the protection of existing services, and
- (g) water sensitive urban design.

(8) Materials and colours:

- (a) compatible with the surrounding natural and built environment,
- (b) factory pre-finished (where possible),
- (c) variety of materials, colours and textures.

(9) Environmental sustainability:

- (a) predominant orientation of indoor and outdoor living areas and glazing,
- (b) natural ventilation, eaves, window hoods and shading,
- (c) minimum insulation/thermal mass requirements,
- (d) exterior colour selections,
- (e) stormwater or rainwater harvesting and reuse/recycling.

(10) Procedures for submission of application for assessment by the *Design Review Panel*:

- (a) address for delivery of applications to the *panel*,
- (b) minimum submission requirements of the *panel*,
- (c) timeframes for *panel* response; and
- (d) fees schedule, if applicable, for cost of panel assessment.

5.8 Design Review Panel

The developer lodging the first DA will establish and implement a Design Review Panel ('the DRP'). The DRP will review all proposals requiring development consent or a Complying Development Certificate; and will use the Design Guidelines and relevant Plan of Development in making that decision. Applicants must submit their application (with the DRP's formal documentation) to Council or an accredited certifier.

Objectives

- (1) To establish an objective, transparent professional body to undertake merit assessments of development against the *Code* and *Design Guidelines*.
- (2) To establish an architectural design context for merit based decisions.
- (3) To facilitate timely and consistent assessments and orderly development of the site.
- (4) To provide professional design advice and education.
- (5) To provide avenues for dispute resolution.
- (6) To issue *Pre-Approval Certificates* as a means of expanding the scope of *Complying Development* consistent with the principles of the *Code*.

Controls

- (1) To establish an objective, transparent professional body to undertake merit assessments of development against the Code and legislative provisions.
- (2) To establish an architectural design context for merit based decisions.
- (3) To facilitate timely and consistent assessments and orderly development of the site.
- (4) To provide professional design advice and education.
- (5) To provide avenues for dispute resolution.
- (6) To issue Pre-Design Certificates as a means of expanding the scope of Complying Development consistent with the Code's principles.
- (7) To enable issue of Design Compliance Certificates after the extinguishment of the Design Review Panel.

Controls

- (1) Establishment:
 - (a) A Design Review Panel (DRP) must be established and operated by the owner of the land the subject of the first subdivision Development Application lodged pursuant to the Code; and
 - (b) whilst that owner retains ownership of at least one lot within that proposed subdivision, that owner must operate the DRP, and has sole right to appoint DRP members; and
 - (c) when that owner ceases to own any land within the site, or when that owner notifies Council that they have relinquished their right to appoint DRP members, that owner must cease operation of the DRP; and
 - (d) when the DRP has ceased in accordance with (1)(c) above, a DRP must be established and operated by Council or by an Architect; and
 - (e) the entity in (1)(d) shall be known as the DRP Administrator.
- (2) Membership:
 - (a) a minimum of 1 and a maximum of 3 members, including a chairperson; and
 - (b) the Chairperson must be an Urban Designer/Town Planner or Architect; and
 - (c) any person appointed to the DRP shall retain their position until that person resigns from the DRP or has their appointment revoked in accordance with (4)(b) below; and
- (3) Meetings:
 - (a) must be held when necessary to perform the DRP's duties; and

- (b) must be convened by the Chairperson after written notice of the date, time and place of the meeting, to DRP members by post, facsimile, or e-mail at least three (3) days prior to the meeting date (unless all members, prior to the meeting, agree to dispense with written notice in which case, notice may be given verbally); and
 - (c) one member of the DRP, being the Chairperson, constitutes a quorum for any meeting of the DRP; and
- (4) Decision making:
 - (a) the DRP, Administrator and any consultants appointed by the DRP must at all times perform their DRP duties in a timely and professional manner and conform to the provisions of the code; and
 - (b) decisions at DRP meetings must be by a majority on a show of hands by all members present; and
 - (c) each member of the DRP must have one vote, however, in the case of a tie in votes, the Chairperson will have the casting vote; and
 - (d) the DRP may hold its meetings by telephone conference call or e-mail if all members agree in writing to do so, and
 - (e) any member of the DRP who is unable to attend a DRP meeting may appoint another DRP member of the as his or her proxy by prior written notice to the DRP Chairperson, such notice signed by the person appointing proxy; and
 - (f) a minute signed by a quorum of the DRP constitutes a DRP resolution; and.
 - (g) only development proposals that vary from the Code will be considered by the DRP.
- (5) Consultants and contractors:
 - (a) consultants and/or contractors may be appointed to the DRP by a quorum of the DRP or the Administrator to assist the DRP in carrying out its duties; and
 - (b) the Administrator or a quorum of the DRP may remove consultants and/or contractors from the DRP with prior written notice to the consultants and/or contractors and the DRP; and
 - (c) any member of the DRP may be a consultant to the DRP; and
 - (d) the DRP or the Administrator may revoke the appointment of a consultant.
- (6) Fees:
 - (a) the DRP may request an applicant to pay a submission fee upon lodgement of a Complying Development proposal, Development Application, or alteration to a previously submitted proposal, to cover the DRP's assessment costs; and
 - (b) inspection of approved completed developments subject to a construction performance bond (see (7) below) is subject to a fee payable by an applicant to the DRP; and
 - (c) the DRP or the Administrator may absorb the assessment costs in whole or in part to either, reduce or negate the necessity of an application fee, although it is under no obligation to do so; and
 - (d) the schedule of fees established under the Design Guidelines, may be adjusted from time to time by the DRP or Administrator to cover reasonable additional costs incurred; and

- (e) an applicant may be directed by the DRP to pay a DRP fee directly to a DRP consultant; and
- (f) a DRP Compliance Certificate does not take effect until all relevant submission fees listed in the schedule of fees have been paid to the DRP or consultant; and
- (f) third party access to the DRP's records may be subject to a fee (see (8)(f) below).

(7) Construction performance bond:

- (a) the Administrator or the DRP may decide, from time to time, to require an applicant to lodge with it a construction performance bond administered and held in trust by the DRP; and
- (b) the bond is required to be paid to the DRP by or on behalf of the owner of the land the subject of the application ; and
- (c) upon completion of the approved development, the owner must request the DRP to inspect the development ; and
- (d) the DRP must inspect the approved completed development within 14 working days of a request in (c) above, in order to determine whether the development has been constructed in accordance with the DRP Pre-Approval Certificate; and
- (e) if the development has been constructed in accordance with (d) above, the DRP must immediately release the construction performance bond with interest to the payee; and
- (f) if the development has not be constructed in accordance with the approved development, the DRP must notify the owner in writing of the works required to be completed prior to the release of the bond and give the owner reasonable time to complete those works; and
- (g) the above process may be repeated until the bond is released; and
- (h) the DRP is under no obligation to release the bond until the development has been constructed in accordance with the approved development; and
- (i) if the DRP has notified the owner in accordance with (f) above and the works remain incomplete, the DRP may garnish the bond from the Trust Account, for the use by the DRP for operating the DRP, including background research or the like and the general assessment function of the DRP.

(8) Procedures and record keeping:

- (a) the DRP must date stamp all applications received and that date is the date of receipt of an application; and
- (b) where an application is received by hand or digital means on a day other than a business day, that date stamp shall be 9:00 am on the next business day; and
- (c) if a fee required to paid upon submission of an application remains unpaid, the DRP may notify the applicant of the required fee, and the date of receipt of the application will be the date stamp of receipt of the fee.
- (d) the Chairperson must keep a current records of all current members of the DRP, including postal and e-mail addresses and, telephone and facsimile numbers; and
- (e) all applications to the DRP must include the contact details of the land owner and applicant; and
- (f) where contact details are not provided with an application, the DRP shall at the earliest

opportunity make all reasonable attempts to obtain them, and is not required to assess the application until those details are obtained; and

- (g) the DRP shall correspond only with the land owner/applicant, unless otherwise directed by the owner in writing to the DRP; and
- (h) within 10 business days of receipt of an application that contains all information required to be provided by the Design Guidelines, the required fee and contact details, the DRP must confirm receipt of the application; and,
- (i) the DRP shall make all reasonable attempts to confirm receipt of incomplete applications within 10 business days of receipt of the application, except that there may be minor delays; and
- (j) the DRP or the Administrator shall keep copies of all applications until the site has been the subject of an application to the DRP; and
- (k) all records kept by the DRP remains the confidential property of the DRP or the Administrator, subject to inspection by other applicants for development of the site, and such inspection shall not be unreasonably denied, although a fee may be payable to the DRP; and
- (l) the process of making an application to the DRP implies the right of the DRP to make copies of the proposal as may be required to carry out its duties of assessment, and

(9) Assessment:

- (a) the DRP must issue a Pre-Approval Compliance Certificate to an applicant in the case of compliant and complete applications; or
- (b) the DRP in the case of non-compliant and/or incomplete applications, must issue to an applicant a written statement of matters of concern, specifying additional information required to be submitted to the DRP to achieve compliance prior to issue of a Pre-Approval Compliance Certificate; and
- (c) the DRP may provide suggested solutions for non-compliant and/or incomplete applications in written or sketch form, but these suggestions shall be made with all due care but no responsibility on the part of the DRP, and the applicant must make its own determination of an appropriate response to the DRP; and
- (d) in the case of non-compliant and/or incomplete applications, the assessment steps in (8)(a) to (c) above must recommence each time additional information is received; and
- (e) the DRP must assess all applications against the relevant provisions of the Code including the relevant Design Guidelines; and,

(10) Merit based assessment:

- (a) the DRP must take into consideration in a consistent and unbiased manner such of the following matters as relevant to the development the subject of an application, and
- (b) will the proposal result in a negative impact on the wider community or adjoining properties, and, if so, can the impact be offset by any positive impacts of the proposal for the wider community and/or adjoining properties, and
- (c) is the proposal consistent with other comparable approved developments on the site; and
- (d) would the proposal be a desirable outcome for the site; and
- (e) is the proposal consistent with the Code's vision and development objectives; and

- (f) is the proposal compatible with its surrounding land and any proposed surrounding proposals; and
 - (g) are there any known reasonable objections to the proposal, and, if so, have the objectors' concerns been ameliorated by amendments to the proposal or conditions of the Pre-Approval Compliance Certificate, and
 - (h) does the application include sufficiently details of compliance with all relevant provisions of the code.
- (11) Dispute resolution:
- (a) In the event of disputes between an applicant and the DRP regarding a proposal and/or any DRP decision about a Pre-Approval Compliance Certificate or condition, the applicant, at its own cost, shall lodge a Development Application with Council for a non-complying development; and
 - (b) In the event of a dispute between an applicant and the DRP the applicant shall submit with a Development Application to Council for the proposal arguments for the proposal and a copy of the DRP's review.
- (12) Extinguishment of the DRP:
- (a) the DRP or Administrator, upon all land the subject of the Code being the subject of approved applications to the DRP, extinguish the DRP, and notify Council in writing of the extinguishment; and
 - (b) the Administrator may extinguish the DRP where it is demonstrated that the DRP has ceased to undertake its duties in accordance with the code; and
 - (c) the Administrator, in extinguishing the DRP in accordance with (b) above, must within 14 days of the decision, notify Council in writing of the reasons for the decision; and
 - (d) the Administrator must advise the Council of any alternative mechanism to the DRP or the establishment of a new DRP; and
 - (e) where the DRP has been extinguished in accordance with (b) above, the Administrator or consultant must finalise all applications in abeyance at the time of extinguishment.
 - (f) where the DRP has been extinguished in accordance with provisions (a) – (c) above, and applications are being assessed by an Architect of the applicant's choosing, similar to the manner in which privately Accredited Certifiers review building applications, the Architect shall be in possession of and be familiar with the current Design Guidelines, Concept Plan and Development Code for all land under the jurisdiction of the Concept Plan, and shall confirm their compliance with this control on the Pre-Approval Compliance Certificate.

5.9 Location and Easements for Services

Objectives

- (1) To ensure appropriate easements are provided for adequate servicing of land where services cannot be located on public land.

Controls

- (1) Where possible, all services must be located in footpaths in accordance with **Figure 5.9.1**.

- (2) Where services are located within a residential lot an easement is to be provided over that infrastructure that has at least one connection to a public road or reserve.

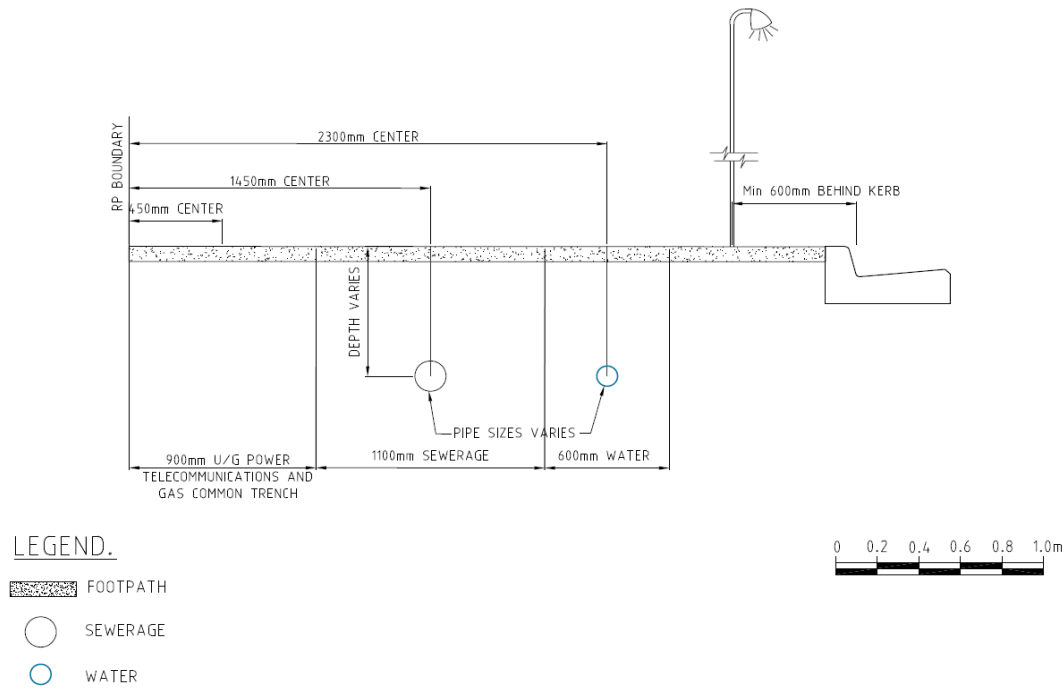


Figure 5.9.1: Typical services section

5.10 Private Services Infrastructure

Objectives

- (1) To facilitate alternate services provision in accord with the *Water Industry Competition Act 2006* and to ensure that the approvals process is structured so as to achieve the intent of that legislation.
- (2) To minimise infrastructure works and potential environmental impacts associated with High Water Table, Acid Sulfate Soils and discharges to the natural environment.
- (3) To facilitate alternate means of sewer and water infrastructure provision.

Controls

- (1) In the event that the proponent seeks to pursue Water and or Sewerage connections in accord with the *Water Industry Competition Act, 2006*, then a licence must be sought and issued by IPART for such works, with the exception of those works that are exempt from approval under the *Water Industry Competition Act 2006*.
- (2) All sewer systems, whether conventional gravity sewerage or an alternate Pressure Sewer System and whether connected to Tweed Shire Council or provided under the Water Industry Competition Act 2006, should be generally in accordance with the provisions of Tweed Shire Council Development Design Specification D12.
- (3) Before undertaking any works requiring approval under Section 68 of the Local Government Act, the proponent must ensure that these works are consistent with the conventional sewerage or pressure sewer system requirements of Control No.2 above.
- (4) Where a dual reticulation water supply for recycled water is provided throughout the development, this must be designed and constructed generally in accordance with WSA Dual Water Supply Systems and Tweed Shire Council Water Supply Specifications.
- (5) Where the development is serviced by a Private Water Utility, then the developer must incorporate on the title for all allotments created, relevant Restrictions as to the User which enforce the need for all dwellings and buildings with plumbing (including commercial buildings and the like) to make provision for recycled water service facilities to the approval of the relevant licenced Network Operator.

5.11 Torrens Title Subdivision

Objectives

- (1) To allow the Torrens Title subdivision of completed developments.

Controls

- (1) Completed residential development which complies with the relevant controls as stated in the Cobaki Lakes Development Code may be re-subdivided in a Torrens title subdivision.
- (2) Subdivision of attached, semi-detached and multiple dwellings may be approved as part of a staged development application
- (3) but must be appropriately conditioned so that subdivision may only occur when the buildings have been granted an occupation certificate.
- (3) Reference to Section 5.4 General Subdivision Controls of this Development Code should be given for the re-subdivision of completed development particularly Table 5.4.1 specifying the minimum area and dimension controls for new lots.
- (4) Each lot is to provide frontage to a public road, which may necessitate multiple access handles with reciprocal rights of carriageway to be registered on title. The created allotment also must also achieve the minimum frontage to a public road for the type of dwelling proposed.
- (5) Vehicular access is to be from one street frontage only.
- (6) Individual servicing infrastructure is required for re-subdivided allotments. In this regard references should be made to Section 5.10 Private Services Infrastructure of this Development Code.
- (7) Any development application to re-subdivide should incorporate a Plan of Development for the intended development.

Note: This control should be read in conjunction with Part B- Development Controls (Development that is not Exempt or Complying Development) with particular attention to Section 5.4 General Subdivision Controls and Section 5.10 Private Services Infrastructure of this Development Code.

5.12 Strata Subdivision

Objectives

- (1) To facilitate efficient subdivision of completed buildings within Cobaki Lakes.

Controls

- (1) Subdivision under the Strata Schemes (Freehold Development) Act 1973 or the Strata Scheme (Leasehold Development) Act 1986 may be carried out without development consent (except in the case of a secondary dwelling).
- (2) Other forms of subdivision of a completed building into separate lots require a separate Development Application to be lodged and assessed by the Tweed Shire Council. The development application will be assessed in accordance with this Code.

Note: This control should be read in conjunction with Part A and B- Development Controls with particular reference to Section 5.10 Private Services Infrastructure of this Development Code.

APPENDIX A: Definition

All terms used in the Cobaki Estate Development Code are to be read as consistent with the definitions contained within the Standard Instrument –Principal Local Environmental Plans 15 July 2015. The definitions have been divided into 2 sections. Section 1 contains use or development definitions used in the Development Matrix. Section 2 contains explanatory definitions to assist in interpreting the Development Code which have been previously approved.

Any undefined terms used in the Development Code are to have the meaning assigned to them in common usage, unless the context otherwise indicates or requires.

Section 1 Use or Development definitions

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal place of heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is:

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

Note. The term may include (but is not limited to) places that are declared under section 84 of the National Parks and Wildlife Act 1974 to be Aboriginal places for the purposes of that Act.

acid sulfate soils means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

Acid Sulfate Soils Manual means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

Advertising structures are a type of **signage**—see the definition of that term in this Dictionary.

affordable housing has the same meaning as in the Act.

Note. The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

Note.

Agricultural produce industries are a type of ***rural industry***—see the definition of that term in this Dictionary.

agriculture means any of the following:

- (a) aquaculture,
- (b) extensive agriculture,
- (c) intensive livestock agriculture,
- (d) intensive plant agriculture.

Note. Part 6 of the *Plantations and Reafforestation Act 1999* provides that exempt farm forestry within the meaning of that Act is not subject to the *Environmental Planning and Assessment Act 1979*.

air transport facility means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

airport means a place that is used for the landing, taking off, parking, maintenance or repair of aeroplanes, and includes associated buildings, installations, facilities and movement areas and any heliport that is part of the airport.

Note.

Airports are a type of ***air transport facility***—see the definition of that term in this Dictionary.

airstrip means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

amusement centre means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

aquaculture has the same meaning as in the *Fisheries Management Act 1994*.

Note.

Aquaculture is a type of ***agriculture***—see the definition of that term in this Dictionary.

archaeological site means a place that contains one or more relics.

attached dwelling means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

Note.

Attached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

backpackers' accommodation means a building or place that:

- (a) provides temporary or short-term accommodation on a commercial basis, and
- (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (c) provides accommodation on a bed or dormitory-style basis (rather than by room).

Note.

Backpackers' accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

Note. See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation.

Bed and breakfast accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

bee keeping means a building or place used for the keeping and breeding of bees for commercial purposes.

Note.

Bee keeping is a type of **extensive agriculture**—see the definition of that term in this Dictionary.

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note.

The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

biosolids treatment facility means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

Note. Biosolids treatment facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

boat building and repair facility means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

brothel has the same meaning as in the Act.

Note. This definition is relevant to the definitions of **home occupation (sex services)** and **sex services premises** in this Dictionary.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

building height (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.

Note. Building identification signs are a type of **signage**—see the definition of that term in this Dictionary.

building line or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

bulky goods premises means a building or place the principal purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, and
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

Note. Bulky goods premises are a type of **retail premises**—see the definition of that term in this Dictionary.

bush fire hazard reduction work has the same meaning as in the Rural Fires Act 1997.

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire, but does not include construction of a track, trail or road.

bush fire prone land has the same meaning as in the Act.

Note. The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

bush fire risk management plan means a plan prepared under Division 4 of Part 3 of the Rural Fires Act 1997 for the purpose referred to in section 54 of that Act.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Note. Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business,

home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note. Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

canal estate development means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:
 - (i) dwellings that are permitted on rural land, and
 - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

catchment action plan has the same meaning as in the Catchment Management Authorities Act 2003.

Note. The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the Catchment Management Authorities Act 2003.

cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

Note. Cellar door premises are a type of **retail premises**—see the definition of that term in this Dictionary.

cemetery means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.

charter and tourism boating facility means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre, but does not include:
 - (c) a building or place used for home-based child care, or
 - (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
 - (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
 - (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
 - (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
 - (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
 - (i) a school, or
 - (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

classified road has the same meaning as in the *Roads Act 1993*.

Note. The term is defined as follows:

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(See *Roads Act 1993* for meanings of these terms.)

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

coastal foreshore means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

coastal hazard has the same meaning as in the Coastal Protection Act 1979.

coastal lake means a body of water specified in Schedule 1 to State Environmental Planning Policy No 71—Coastal Protection.

coastal protection works has the same meaning as in the Coastal Protection Act 1979.

coastal waters of the State—see section 58 of the Interpretation Act 1987.

coastal zone has the same meaning as in the Coastal Protection Act 1979.

Note. The term is defined as follows:

coastal zone means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the Interpretation Act 1987 (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

commercial premises means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

community land has the same meaning as in the Local Government Act 1993.

correctional centre means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the Crimes (Administration of Sentences) Act 1999, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the Children (Detention Centres) Act 1987,
but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

Council means the Tweed Shire Council.

crematorium means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

dairy (pasture-based) means a dairy that is conducted on a commercial basis where the only restriction facilities present are milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

Note. Dairies (pasture-based) are a type of **extensive agriculture**—see the definition of that term in this Dictionary.

dairy (restricted) means a dairy that is conducted on a commercial basis where restriction facilities (in addition to milking sheds and holding yards) are present and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief). It may comprise the whole or part of a restriction facility.

Note. Dairies (restricted) are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

demolish, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

drainage means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

Note. Dual occupancies are a type of **residential accommodation**—see the definition of that term in this Dictionary.

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Note. Dual occupancies (attached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Note. Dual occupancies (detached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

earthworks means excavation or filling.

ecologically sustainable development has the same meaning as in the Act.

eco-tourist facility means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

Note. See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

electricity generating works means a building or place used for the purpose of making or generating electricity.

emergency services facility means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

emergency services organisation means any of the following:

- (a) Ambulance Service of New South Wales,
- (b) Fire and Rescue NSW,
- (c) NSW Rural Fire Service,
- (d) NSW Police Force,
- (e) State Emergency Service,
- (f) New South Wales Volunteer Rescue Association Incorporated,
- (g) New South Wales Mines Rescue Brigade established under the Coal Industry Act 2001,
- (h) an accredited rescue unit within the meaning of the State Emergency and Rescue Management Act 1989.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.

estuary has the same meaning as in the Water Management Act 2000.

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the Water Management Act 2000) to be an estuary, but does not include anything declared by the regulations (under the Water Management Act 2000) not to be an estuary.

excavation means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

exhibition home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

exhibition village means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

extensive agriculture means any of the following:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock for commercial purposes,
- (c) bee keeping,
- (d) a dairy (pasture-based).

Note. Extensive agriculture is a type of ***agriculture***—see the definition of that term in this Dictionary.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

Note. Extractive industries are not a type of ***industry***—see the definition of that term in this Dictionary.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the Mining Act 1992.

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard,

machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Note. See clause 5.4 for controls relating to the number of bedrooms.

Farm stay accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

feedlot means a confined or restricted area that is operated on a commercial basis to rear and fatten cattle, sheep or other animals, fed (wholly or substantially) on prepared and manufactured feed, for the purpose of meat production or fibre products, but does not include a poultry farm, dairy or piggery.

Note. Feedlots are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

filming means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

fish has the same meaning as in the Fisheries Management Act 1994.

Note. The term is defined as follows:

Definition of “fish”

(1)

Fish means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).

(2)

Fish includes:

- (a) oysters and other aquatic molluscs, and
 - (b) crustaceans, and
 - (c) echinoderms, and
 - (d) beachworms and other aquatic polychaetes.
- (3)

Fish also includes any part of a fish.

(4)

However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the Fisheries Management Act 1994.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

floor space ratio—see clause 4.5.

Floor Space Ratio Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Floor Space Ratio Map.

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

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

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

forestry has the same meaning as **forestry operations** has for the purposes of Part 5A of the Forestry Act 2012.

Note. The term is defined as follows:

forestry operations means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) the harvesting of forest products, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning and other silvicultural activities such as bee-keeping, grazing and bush fire hazard reduction, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

funeral home means premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons.

Note. Funeral homes are a type of **business premises**—see the definition of that term in this Dictionary.

garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

Note. Garden centres are a type of ***retail premises***—see the definition of that term in this Dictionary.

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

Note. General industries are a type of ***industry***—see the definition of that term in this Dictionary.

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

group home means a permanent group home or a transitional group home.

Note. Group homes are a type of ***residential accommodation***—see the definition of that term in this Dictionary.

group home (permanent) or ***permanent group home*** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged, but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

Note. Permanent group homes are a type of **group home**—see the definition of that term in this Dictionary.

group home (transitional) or transitional group home means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

Note. Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

hardware and building supplies means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

Note. Hardware and building supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

hazardous industry means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

Note. Hazardous industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

hazardous storage establishment means a building or place that is used for the storage of goods, materials or products and that would, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the building or place from existing or likely future development on other land in the locality), pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

Note. Hazardous storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

headland includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

health care professional means any person registered under an Act for the purpose of providing health care.

health consulting rooms means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

Note. Health consulting rooms are a type of **health services facility**—see the definition of that term in this Dictionary.

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

heavy industrial storage establishment means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and that requires separation from other development because of the nature of the processes involved, or the goods, materials, plant or machinery stored, and includes any of the following:

- (a) a hazardous storage establishment,
- (b) a liquid fuel depot,
- (c) an offensive storage establishment.

heavy industry means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes:

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

Note. Heavy industries are a type of **industry**—see the definition of that term in this Dictionary.

Height of Buildings Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Height of Buildings Map.

helipad means a place not open to the public used for the taking off and landing of helicopters.

heliport means a place open to the public that is used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

Note. Heliports are a type of **air transport facility**—see the definition of that term in this Dictionary.

heritage conservation area means an area of land of heritage significance:

- (a) shown on the Heritage Map as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 5,

and includes any heritage items situated on or within that area.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Public Service agency responsible to the Minister administering the *Heritage Act 1977* that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

Note. An inventory of heritage items is also available at the office of the Council.

Direction. Heritage items must be shown on the Heritage Map.

heritage management document means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Heritage Map means the [*Name of local government area or other relevant name*] Local Environmental Plan [*Year*] Heritage Map.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

high technology industry means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,
- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

Note. High technology industries are a type of ***light industry***—see the definition of that term in this Dictionary.

highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is licensed within the meaning of the Children and Young Persons (Care and Protection) Act 1998,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used for a home business.

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used for a home industry.

Home industries are a type of **light industry**—see the definition of that term in this Dictionary.

home occupation means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
 - (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
 - (c) the display of goods, whether in a window or otherwise, or
 - (d) the exhibition of any signage (other than a business identification sign), or
 - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,
- but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

home occupation (sex services) means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
 - (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
 - (c) the exhibition of any signage, or
 - (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,
- but does not include a home business or sex services premises.

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

Note. Horticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops, kiosks, restaurants or cafes or take away food and drink premises,
- (e) patient transport facilities, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

Note. Hospitals are a type of **health services facility**—see the definition of that term in this Dictionary.

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

Note. Hostels are a type of **residential accommodation**—see the definition of that term in this Dictionary.

hotel or motel accommodation means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry or rural industry, and
- (b) is situated on the land on which the industry or rural industry is located, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located, but does not include a warehouse or distribution centre.

Note. See clause 5.4 for controls relating to the retail floor area of an industrial retail outlet.

industrial training facility means a building or place used in connection with vocational training in an activity (such as forklift or truck driving, welding or carpentry) that is associated with an industry, rural industry, extractive industry or mining, but does not include an educational establishment, business premises or retail premises.

industry means any of the following:

- (a) general industry,
- (b) heavy industry,
- (c) light industry, but does not include:
- (d) rural industry, or
- (e) extractive industry, or
- (f) mining.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes any of the following:

- (a) dairies (restricted),

- (b) feedlots,
 - (c) piggeries,
 - (d) poultry farms,
- but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

Note. Intensive livestock agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

intensive plant agriculture means any of the following:

- (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

Note. Intensive plant agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

kiosk means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

Note. See clause 5.4 for controls relating to the gross floor area of a kiosk.

Kiosks are a type of **retail premises**—see the definition of that term in this Dictionary.

Land Application Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Application Map.

Land Reservation Acquisition Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Reservation Acquisition Map.

Land Zoning Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Land Zoning Map.

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

landscaping material supplies means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

Note. Landscaping material supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

Note. Light industries are a type of **industry**—see the definition of that term in this Dictionary.

liquid fuel depot means premises used for the bulk storage of petrol, oil, petroleum or other inflammable liquid for wholesale distribution and at which no retail trade is conducted.

Note. Liquid fuel depots are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

livestock processing industry means a building or place used for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes abattoirs, knackeries, tanneries, woolscours and rendering plants.

Note. Livestock processing industries are a type of **rural industry**—see the definition of that term in this Dictionary.

Lot Size Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Lot Size Map.

maintenance, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

marina means a permanent boat storage facility (whether located wholly on land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats,
- (b) any facility for providing fuelling, sewage pump-out or other services for boats,
- (c) any facility for launching or landing boats, such as slipways or hoists,
- (d) any car parking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,
- (e) any berthing or mooring facilities.

market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

Note. Markets are a type of **retail premises**—see the definition of that term in this Dictionary.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

Note. Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

mezzanine means an intermediate floor within a room.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mine subsidence district means a mine subsidence district proclaimed under section 15 of the Mine Subsidence Compensation Act 1961.

mining means mining carried out under the Mining Act 1992 or the recovery of minerals under the Offshore Minerals Act 1999, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

Note. Mining is not a type of **industry**—see the definition of that term in this Dictionary.

mixed use development means a building or place comprising 2 or more different land uses.

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel, but does not include a mooring pen.

mooring pen means an arrangement of freestanding piles or other restraining devices designed or used for the purpose of berthing a vessel.

mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

moveable dwelling has the same meaning as in the Local Government Act 1993.

Note. The term is defined as follows:

moveable dwelling means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the Local Government Act 1993) for the purposes of this definition.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Note. Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

native fauna means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

native flora means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the Fisheries Management Act 1994.

native vegetation has the same meaning as in the Native Vegetation Act 2003.

Note. The term is defined as follows:

Meaning of “native vegetation”

(1)

Native vegetation means any of the following types of indigenous vegetation:

- (a) trees (including any sapling or shrub, or any scrub),
- (b) understorey plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland.

(2)

Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.

(3)

Native vegetation does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the Fisheries Management Act 1994 applies.

navigable waterway means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

Note. See clause 5.4 for controls relating to the retail floor area of neighbourhood shops.

Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

nominated State heritage item means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

non-potable water means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

NSW Coastal Policy means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

offensive industry means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

Note. Offensive industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

offensive storage establishment means a building or place that is used for the storage of goods, materials or products and that would, when all measures proposed to reduce or

minimise its impact on the locality have been employed (including, for example, measures to isolate the building or place from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

Note. Offensive storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

Note. Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

open cut mining means mining carried out on, and by excavating, the earth's surface, but does not include underground mining.

operational land has the same meaning as in the *Local Government Act 1993*.

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

people who are socially disadvantaged means:

- (a) people who are disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or
- (b) people who require protection because of domestic violence or upheaval.

people with a disability means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

plant nursery means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

Note. Plant nurseries are a type of **retail premises**—see the definition of that term in this Dictionary.

port facilities means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

potable water means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

private open space means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

property vegetation plan has the same meaning as in the Native Vegetation Act 2003.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the Native Vegetation Act 2003.

pub means licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

Note. Pubs are a type of **food and drink premises**—see the definition of that term in this Dictionary.

public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

public authority has the same meaning as in the Act.

public land has the same meaning as in the Local Government Act 1993.

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the Crown Lands Act 1989 applies, or
- (c) a common, or
- (d) land subject to the Trustees of Schools of Arts Enabling Act 1902, or
- (e) a regional park under the National Parks and Wildlife Act 1974.

public reserve has the same meaning as in the Local Government Act 1993.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Public Service agency or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,

- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,
and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Public Service agency, corporation, firm or authority carrying on the undertaking.

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,
and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

Reduced Level (RL) means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

registered club means a club that holds a club licence under the Liquor Act 2007.

relic has the same meaning as in the Heritage Act 1977.

Note. The term is defined as follows:

relic means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

research station means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil

conservation research, and includes any associated facility for education, training, administration or accommodation.

residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

residential care facility means accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hostel, hospital or psychiatric facility.

Note. Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note. Residential flat buildings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

Note. Resource recovery facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

respite day care centre means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

Note. Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

restricted premises means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

restriction facilities means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

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

road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

roadside stall means a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area of roadside stalls.

Roadside stalls are a type of **retail premises**—see the definition of that term in this Dictionary.

rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) agricultural produce industries,
- (b) livestock processing industries,
- (c) composting facilities and works (including the production of mushroom substrate),
- (d) sawmill or log processing works,

- (e) stock and sale yards,
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

Note. Rural industries are not a type of **industry**—see the definition of that term in this Dictionary.

rural supplies means a building or place used for the display, sale or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

Note. Rural supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

rural worker's dwelling means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

Note. Rural workers' dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

sawmill or log processing works means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

Note. Sawmill or log processing works are a type of **rural industry**—see the definition of that term in this Dictionary.

school means a government school or non-government school within the meaning of the Education Act 1990.

Note. Schools are a type of **educational establishment**—see the definition of that term in this Dictionary.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Secondary dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

self-storage units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

Note. Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

Note. Semi-detached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or

- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Note. Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note. Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

Note. Sewage reticulation systems are a type of **sewerage system**—see the definition of that term in this Dictionary.

sewage treatment plant means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

Note. Sewage treatment plants are a type of **sewerage system**—see the definition of that term in this Dictionary.

sewerage system means any of the following:

- (a) biosolids treatment facility,
- (b) sewage reticulation system,
- (c) sewage treatment plant,
- (d) water recycling facility,
- (e) a building or place that is a combination of any of the things referred to in paragraphs (a)–(d).

sex services means sexual acts or sexual services in exchange for payment.

sex services premises means a brothel, but does not include home occupation (sex services).

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

Note. Shops are a type of **retail premises**—see the definition of that term in this Dictionary.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note. Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,
 - (b) a building identification sign,
 - (c) a business identification sign,
- but does not include a traffic sign or traffic control facilities.

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

Note. The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

site coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

small bar means a small bar within the meaning of the Liquor Act 2007.

Note. Small bars are a type of **food and drink premises**—see the definition of that term in this Dictionary.

spa pool has the same meaning as in the Swimming Pools Act 1992.

Note. The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

stock and sale yard means a building or place that is used on a commercial basis for the purpose of offering livestock or poultry for sale and that may be used for the short-term storage and watering of stock.

Note. Stock and sale yards are a type of **rural industry**—see the definition of that term in this Dictionary.

storage premises means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

swimming pool has the same meaning as in the Swimming Pools Act 1992.

Note. The term is defined as follows:

swimming pool means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity, and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the Swimming Pools Act 1992 not to be a swimming pool for the purposes of that Act.

take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

Note. Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this Dictionary.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or
- (c) any other thing used in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the Act.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

the Act means the Environmental Planning and Assessment Act 1979.

timber yard means a building or place the principal purpose of which is the sale of sawn, dressed or treated timber, wood fibre boards or similar timber products. It may

include the cutting of such timber, boards or products to order and the sale of hardware, paint, tools and materials used in conjunction with the use and treatment of timber.

Note. Timber yards are a type of **retail premises**—see the definition of that term in this Dictionary.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,
but does not include:
- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

turf farming means the commercial cultivation of turf for sale and the removal of turf for that purpose.

Note. Turf farming is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

underground mining means:

- (a) mining carried out beneath the earth's surface, including bord and pillar mining, longwall mining, top-level caving, sub-level caving and auger mining, and
- (b) shafts, drill holes, gas and water drainage works, surface rehabilitation works and access pits associated with that mining (whether carried out on or beneath the earth's surface),
but does not include open cut mining.

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

vehicle repair station means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

vehicle sales or hire premises means a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

Note. Vehicle sales or hire premises are a type of **retail premises**—see the definition of that term in this Dictionary.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

viticulture means the cultivation of grapes for use in the commercial production of fresh or dried fruit or wine.

Note. Viticulture is a type of ***intensive plant agriculture***—see the definition of that term in this Dictionary.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

Note. Waste disposal facilities are a type of ***waste or resource management facility***—see the definition of that term in this Dictionary.

waste or resource management facility means any of the following:

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

Note. Waste or resource transfer stations are a type of ***waste or resource management facility***—see the definition of that term in this Dictionary.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

water recycling facility means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

Note. Water recycling facilities are a type of ***sewerage system***—see the definition of that term in this Dictionary.

water reticulation system means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

Note. Water reticulation systems are a type of **water supply system**—see the definition of that term in this Dictionary.

water storage facility means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

Note. Water storage facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

water supply system means any of the following:

- (a) a water reticulation system,
- (b) a water storage facility,
- (c) a water treatment facility,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

water treatment facility means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

Note. Water treatment facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

wharf or boating facilities means a wharf or any of the following facilities associated with a wharf or boating that are not port facilities:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

wholesale supplies means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

Section 2 Explanatory Definitions

“accredited certifier” means an individual or company accredited by the Building Professionals Board under the *Building Professionals Act 2005* to issue construction, occupation, subdivision and compliance certificates and *complying development certificates* under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and strata certificates under the strata legislation (specify the legislation).

“alternative solution” means the same as it does in the Building Code Australia.

Note. The term is defined as follows: **alternative solution** means a **building solution** which complies with the **performance requirements** other than by reason of satisfying the **deemed-to-satisfy provisions** (where each of those terms is also defined in that document).

“ancillary development” means any of the following that are not *exempt development* under this Code:

- (a) access ramp,
- (b) awning, blind or canopy,
- (c) balcony, deck, patio, pergola, terrace or verandah that is *attached* to a *dwelling house*,
- (d) carport that is *attached* to a *dwelling house*,
- (e) driveway, pathway or paving,
- (f) fence or screen,
- (g) *Garage* that is *attached* to a *dwelling house*,
- (h) *outbuilding*,
- (i) rainwater tank that is *attached* to a *dwelling house*,
- (j) retaining wall,
- (k) swimming pool or spa pool and child-resistant barrier.

“architect” means a design professional holding a current registration as an *architect* in Queensland in accordance with the requirements of the *Architects Act 2002* (Qld) or holding a current registration as an *architect* with the New South Wales Architects Registration Board.

“articulation zone” means an area within a lot within which *building elements* may be located and consists of that part of the *setback area* from a boundary measured in plan for a distance specified in the Code, or any alternate distance detailed in a *plan of development*.

“attached” means, in relation to a building or structure that is *complying development*, not more than 0.9m from another building or structure.

“battle-axe lot” means a lot that has access to a road or laneway by an elongated narrow section of the lot, which may be shared by easement with another lot.

“building element” means

- (a) an entry feature or portico,
- (b) a balcony, deck, patio, pergola, terrace or verandah,
- (c) a window box treatment,
- (d) a bay window or similar feature,
- (e) an awning or other feature over a window,
- (f) a sun shading feature.
- (g) an eave, or

“building footprint” means the area of land measured at finished ground level that is enclosed by the external walls of a building.

“building height” (or **height of building**) means the vertical *height* of a building, measured between a point at *ground level (existing)* and the highest point of the building immediately above, including plant and lift overruns (unless specifically excluded by this *Code*), but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

“built-to-boundary” means the situation where a wall is constructed between 0.025m to 0.25m from a shared boundary.

“chairperson” means the Chairperson of the Design Review Panel.

“class” in relation to a building or part of -part of a building, has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

“Code” means the Cobaki Estate Development Code.

“communal open space” means a shared open space area available to the occupants of more than one residential / tourist dwelling and which is under the control of an owners’ corporation, body corporate or equivalent.

“complying development” development that meets specified predetermined development standards.

“complying development certificate (CDC)” means a certificate that is issued by a *Council* or an *accredited certifier* which states that particular proposed development is *complying development* and (if carried out as specified in the certificate) will comply with all development standards applicable to the development and with other requirements prescribed by the regulations concerning the issue of a *complying development certificate*.

“complying development code” means a code for *complying development* which contains predetermined development standards for different development types as set out in Part A of this *Code*.

“concept plan” means the *concept plan* approval for Cobaki Estate, as described by **Sections 1.1 and 1.2** and summarised at Appendix B of this *Code*.

“corridor” means the vegetated (and area to be revegetated) that links the Crown Border Reserve, the wetland and sclerophyll forested habitats and the Cobaki Estate Estuarine Broadwater through the Cobaki Estate site.

"deep planting area" means a planted area where there is no structure beneath it.

"design guidelines" means the merit based design controls for the design of buildings and landscape that have been prepared in accordance with **Section 5.7** of this Code.

"design review panel or (DRP)" means the panel established and operated by the owner of the land that is the subject of the first development application for the land controlled by this code to review all applications required to be submitted to an *accredited certifier* or *council* for assessment..

"design review panel (DRP) administrator" means the entity with responsibility for the appointment and revocation of members of the DRP.

"detached", in relation to a building or structure that is *complying development*, means more than 0.9m from another building or structure.

"development application" means an application for consent under Part 4 of the EP&A Act 1979 (as amended) to carry out development but does not include an application for a *complying development certificate*.

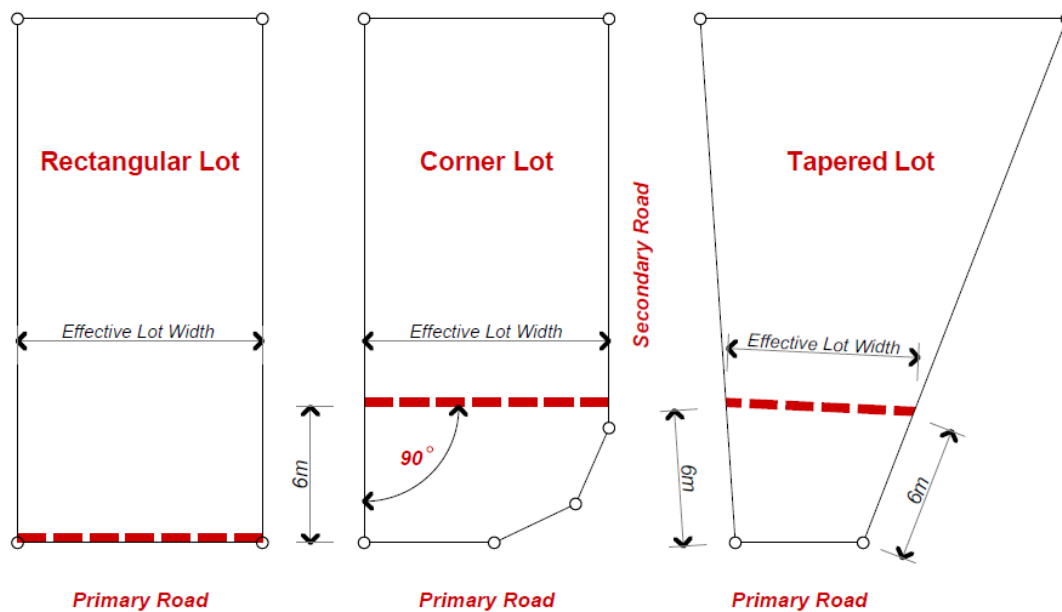
"developer contributions" means a contribution towards provision or improvement of amenities or services in accordance with an adopted Contribution Plan in accordance with the EP&A Act 1979 (as amended).

"development lot" means a lot that has not yet been subdivided for its ultimate yield, and is sometimes referred to as a "Master Lot or Management Lot". It does not include lots where the proposed subdivision is to separate non-urban land from urban zoned land. It also does not include a Dual Occupancy or a Multi Dwelling Housing lot, as these lots have a defined yield, and are *nominated lots*.

"DRP pre-approval certificate" means written approval from the *design review panel* certifying that the proposed design achieves compliance with the Design Review Guidelines that apply to the application and which have been prepared in accordance with Section 5.5 of this Code.

"effective lot width" means,

- a) for a rectangular lot, the width of the lot as measured along a line that is parallel to the boundary to the *primary road*; or
- b) for a corner lot, the width of the lot as measured along a line that starts from a point on the *shared boundary* that is located 6m back from the boundary to the *primary road*, as measured along that boundary and finishes at a point on the opposite boundary where that line is perpendicular to the *shared boundary*; or
- c) for a tapered lot, as measured along a line that starts from a point on the *shared boundary* that is located 6m back from the boundary to the *primary road* as measured along that boundary and finishes at a point on the opposite *shared boundary* that is also located 6m back from the boundary to the *primary road* as measured along that *shared boundary* (refer diagrams below).



“exempt development” means development that is assessed for building approval under the *exempt development* provisions of Part A of this Code.

“exempt development code” means a code for *exempt development* set out in Part A of this Code.

“floor area” means, in reference to a *dwelling*, the sum of the areas of each *storey* of the *dwelling* and any carport, *garage*, balcony, deck, patio, pergola, terrace or verandah enclosed by external walls or defined by external columns and measured at a *height* of 1.4m above each floor level (excluding any void above a lower *storey*).

“frontage boundary” means any lot boundary separating a *nominated lot* from a lot that contains *public open space*.

“frontage building line” means the line of the existing or proposed building wall (other than a wall of any *building element* within an *articulation zone*), or the outside face of any existing or proposed *ancillary development*, closest to the primary or secondary street frontage boundary of the lot as measured at the ground level.

“foundation area” means, for any lot on which a building is situated or proposed, all building structures that are located below the floor level of the ground floor.

“garage” means an enclosure for the storage of one or more cars.

“garage door line” means a line that aligns with the outside face of the wall or column that supports the *garage* or carport door, as illustrated in **Figure 3.1.2.1**.

“ground level (existing average)” means, for any lot on which a building is situated or proposed, one half of the sum of the highest and lowest levels at *ground level (existing)* of the outer surface of the external walls of the building.

“habitable room” has the same meaning as in the Building Code of Australia.

Note. The term is defined as a room used for normal domestic activities, other than a bathroom, laundry, toilet, pantry, walk in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature that is not occupied frequently or for extended periods.

"hard stand space" means an area of concrete, paving or other hard material at ground level designed solely for parking a motor vehicle.

"matching" means, in reference to a colour, a digital difference of no more than 10 in Red, Green or Blue (RGB) as determined by an industry standard scanning device.

"nominated lot" means a lot which complies with the controls specified in Table 5.2.1: Minimum Area and Dimension Controls for New Lots of this code for a specified *dwelling type* or other development, i.e., *dwelling house, semi detached dwelling, attached dwelling, dual occupancy, multi dwelling housing, shop-top housing or development lot* and has been nominated accordingly on the *plan of development*.

"non-habitable" means spaces of a specialised nature not occupied frequently or for extended periods, including bathrooms, toilets, pantries, walk-in wardrobes, corridors, lobbies, photographic darkrooms and clothes drying rooms.

"outbuilding" means any of the following *building elements* when they are *detached* from a *dwelling*:

- (a) balcony, deck, patio, pergola, terrace or verandah,
- (b) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (c) carport,
- (d) garage,
- (e) rainwater tank (above ground),
- (f) shade structure,
- (g) shed.

"outdoor room", also known as an 'alfresco room' means a semi enclosed space (at least 1 side open) located adjacent a living / dining / kitchen area of a *dwelling* that sits within the main roof line of a *dwelling*.

"outermost projection or OMP", means a *building element* that extends the furthestmost distance from a building wall, for instance an eave, but does not include a gutter.

"plan of development or POD" means an approved subdivision plan indicating the *nominated lots* and providing a summary of development controls in relation to the future development of the land as required by Section 5.4 of this Code and that is linked to a registered Section 88B instrument.

"precinct plan" means a plan which provides a summary of staging, yield, open space, the collector road network, service infrastructure in accordance with Section 5.1 of the Code.

"primary road" means the road to which the front of a *dwelling house*, or a main building, on a lot faces or is proposed to face.

"principal dwelling" means the largest *dwelling* on a lot, measured by *gross floor area*.

"private open space or (POS)" means the portion of private land or a semi private balcony which serves as an extension of the *dwelling* to provide space for relaxation, dining, entertainment and recreation and is located as nominated on the *plan of development* or as otherwise determined by the *DRP* as receiving adequate solar access and privacy from adjoining *dwellings*, and it may include an *outdoor room*.

"professional engineer" has the same meaning as in the Building Code of Australia.

Note. The term is defined as a person who is:

- (a) if legislation is applicable—a registered *professional engineer* in the relevant discipline who has appropriate experience and competence in the relevant field, or
- (b) if legislation is not applicable:
- (c) a Corporate Member of the Institution of Engineers, Australia, or
- (d) eligible to become a Corporate Member of the Institution of Engineers, Australia, and has appropriate experience and competence in the relevant field.

“rear articulation zone” means an area within a lot within which *building elements* may be located that consists of that part of the *setback area* from the rear boundary that is measured for a distance specified in the this *Code* or any alternate distance detailed in an approved *plan of development* for that type of development.

“setback” means the shortest horizontal distance between the relevant boundary of the lot and the *building element*.

“setback area” means the area between the relevant boundary of the lot and the *building line*.

“shared boundary ” means any lot boundary separating one *nominated lot* from another *nominated lot*.

“shared boundary fencing” means any fencing located on a boundary separating one *nominated lot* from another *nominated lot* and which is not forward of the *frontage building line* of either the primary or secondary street frontages.

“standard instrument” means the standard local environmental planning instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006.

“storey” means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include the following:

- (a) an *attic*,
- (b) a *basement*, or access thereto,
- (c) a lift shaft,
- (d) a mezzanine,
- (e) a stairway.
- (f) a *foundation area* that does not extend more than 1.5m above *ground level (existing average)*.

Note. *The determination of the number of storeys a building contains is as set out in State Environmental Planning Policy No 6—Number of storeys in a Building.*

“ attached dwelling” Means a building containing 3 or more dwellings in which all or at least part of both side walls are built-to-boundary (with the exception of corner lots or lots adjoining public space, where only the shared boundary will have a zero-lot wall).

“the Act” means the Environmental Planning and Assessment Act 1979 (NSW).

“townhouse dwelling” means a *dwelling* within a development in which six or more *attached dwellings* with direct ground access are located on a single lot with a shared common driveway, common property and communal facilities. These *dwellings* may be strata-titled and must be constructed on a *nominated lot* designated for *townhouse dwelling* development on the approved *plan of development*.

“zero-lot dwelling” means a dwelling where all, or at least part, of one side wall is *built-to-boundary*. These *dwellings* must be constructed on a *nominated lot* designated for *zero-lot dwelling* development on the approved *plan of development*.

Notes:

- (a) A word or expression used in this *Code* has the same meaning as it has in the *Standard Instrument—Principal Local Environmental Plan* (NSW) unless otherwise defined in this *Code*.
- (b) A reference in this *Code* to a type of building or other thing is a reference to development for the purposes of that type of building or other thing.
- (c) Notes included in this *Code* do not form part of this *Code*.

APPENDIX B: Summary of Concept Approval

The Cobaki Estate Concept Approval comprises the following key features:

- Seventeen (17) residential precincts with a mix of housing types including detached houses, terraces and attached dwellings on corner allotments, comprising 5,500 dwellings covering approximately 294 hectares of net developable land;
- A mixed use Town Centre and Neighbourhood Centre with a combined land area of approximately 18 hectares;
- Community and education facilities including two schools over approximately 8.5 hectares of land;
- Active and passive open space areas comprising an area of approximately 90 hectares of land;
- Environmental protection areas covering approximately 194 hectares of land;
- Access network of roads, public transport routes and pedestrian/cycle paths;
- Landscaping and vegetation management;
- Water management areas; and
- Utility services infrastructure.

APPENDIX C: Council's rainwater harvesting requirements

Note: The minimum lot sizes specified in the Code for specific dwelling types should be used in preference to the minimum lot sizes in the table below.



Rainwater Harvesting for Demand Management, Tank and Connected Roof Minimums

Development Type/Size	Connected Roof Area	Minimum Tank Size
Detached Dwelling $\geq 450\text{m}^2$ Lot	160m^2 minimum	5000L
Zero-lot Dwelling 250m^2 lots (min)	Min 85% of roof up to 160m^2	3000L
Terrace Dwelling 175m^2 lots (min)	Min 85% of roof up to 160m^2	2000L (3000L if space permits)
Plex (each dwelling) 2 – 5 on 450m^2 lot (min)	Min 85% of roof up to 160m^2	2000L Site Min 5000L Can be common
Mews (each dwelling) 3 – 6 on 500m^2 lot (min) (lot can be Torrens Title subdivided further)	Min 85% of roof up to 160m^2	2000L No common tank without a body corporate or single owner.
SOHO Dwelling 250m^2 lots (min)	Min 85% of roof up to 160m^2	3000L
Multiple Unit Developments, Commercial, Industrial	80 – 90% of roof area	Common tank sized proportionate to building size.