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# KINGS FOREST

# DEVELOPMENT CODE

## PART A - EXEMPT AND COMPLYING DEVELOPMENT

## PART B - DEVELOPMENT CONTROLS

Version 1.4 – Amended to address Council's comments dated 20 August 2021 – 28 April 2022

As amended by Condition B6 of Concept Plan Approval No. 06\_0318 (MOD 2) Issued on 11 August 2013

As amended by Condition A2 of Concept Plan Approval No. 06\_0318 (MOD 4) Issued on 20 November 2014

And amended by Concept Plan Approval No. 06\_0318 (MOD 5) Issued on 10 November 2015



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#### Acknowledgement

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Amended Development Code compiled by DAC Planning Pty Ltd 28 April 2022 for use by Project 28 Pty Ltd and the Company's Consulting Team only. Due care has been taken in compiling the amended Development Code but for abundant caution reference should be made to individual Modification Instruments rather than relying on this amended Development Code.

**Part A of this Development Code contains the controls for Exempt and Complying Development for Kings Forest.**

**Approved: Original Approval 12 December 2010**

**Version 1.1 – as amended by Condition B6 of Concept Plan Approval No. 06\_0318 (MOD 2) issued on 11 August 2013**

**Version 1.2 – as amended by Condition A3 of Concept Plan Approval No. 06\_0318 (MOD 4) issued on 20 November 2014**

**Version 1.3 – as amended by Condition A3 of Concept Plan Approval No. 06\_0318 (MOD 5) issued on 10 November 2015**

**Version 1.4 – as amended by Condition A3 of Concept Plan Approval No. 06\_0318 (MOD 9) issued on ??**

**Sam Haddad  
Director-General  
Department of Planning**

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## APPENDICES

- A** Glossary.
- B** Summary of Concept Plan Approval.
- C** Tweed Shire Council's rainwater harvesting requirements.

## 1.0 INTRODUCTION

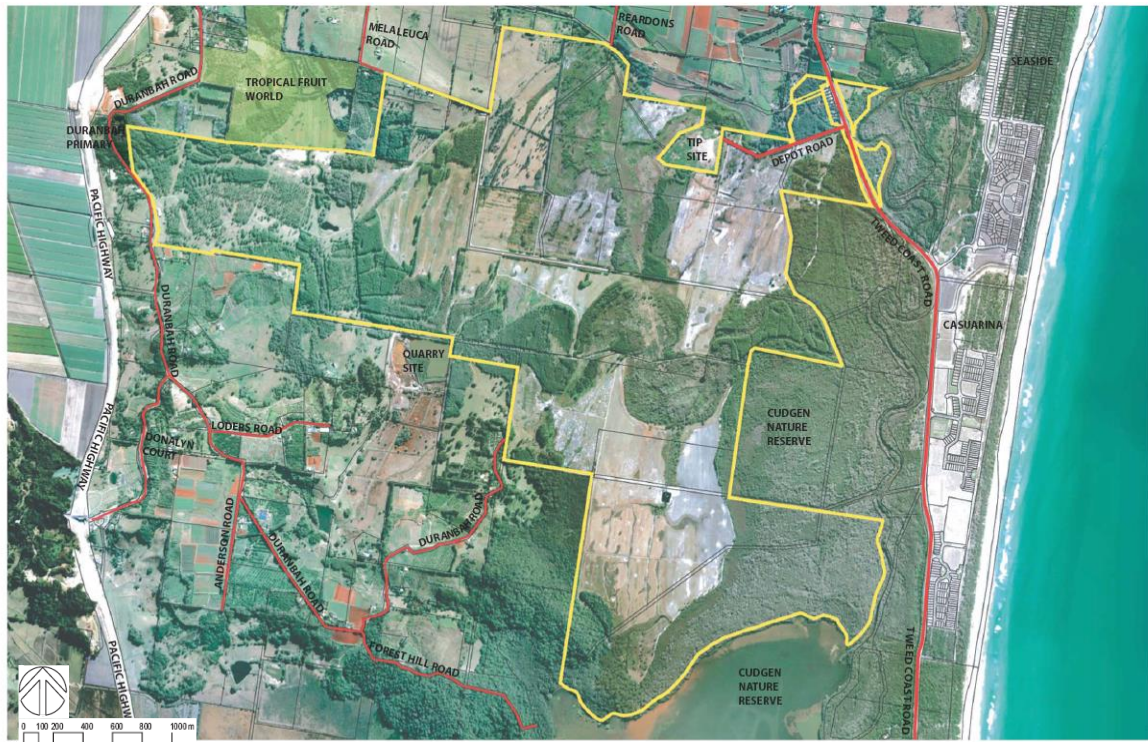
*This section of the Development Code provides an overview of the purpose and the structure of the Kings Forest Development Code and provides information on how to apply the Code to various development types within Kings Forest.*

This section is intentionally blank.

## 1.1 Name and Application of this Plan

This *Code* is known as the Kings Forest Development Code. The *Code* forms part of the Kings Forest *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 Kings Forest. The boundary of the Kings Forest site is shown at **Figure 1.1.1**.



**Figure 1.1.1:** Land to which this Development Code Applies

## 1.2 The Kings Forest Concept Plan

The Director General of the Department of Planning, as the delegate of the Minister for Planning, formed the opinion that the Kings Forest *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 Kings Forest;
- ♦ 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 Kings Forest *concept plan* are contained in this *Code*.

The *concept plan* at **Figure 1.2.1** illustrates the broad level development outcomes for Kings Forest. 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*.

### Objectives

- (1) To ensure development of Kings Forest 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 Kings Forest *concept plan* at **Figure 1.2.1** subject to compliance with the objectives and development controls set out in this *Code*. ~~The Consent Authority may approve a development proposal which is not generally in accordance with the Kings Forest Concept Plan and Kings Forest Development Code if the Secretary is satisfied that the development proposal will deliver better planning outcomes;~~

### Exceptions to provisions

- (1) The objectives of this clause are as follows—
  - (a) to provide an appropriate degree of flexibility in applying provisions of this *Code* or the *concept plan* approval to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene any provision of this *Code* or the *concept plan* approval.
- (3) Development consent must not be granted for development that contravenes such a provision unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the provision by demonstrating—
  - (a) that compliance with the provision is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the provision.



- (4) Development consent must not be granted for development that contravenes a provision unless the consent authority is satisfied that—
    - (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the urban design principles for development within the precinct in which the development is proposed to be carried out.
- (2) Land uses are to be as specified on the Precinct Development Matrix at **Figure 1.2.2**.
- (3) The Kings Forest Concept Plan Approval 06\_0318 and Kings Forest Development Code are the principal controls regulating land use at Kings Forest. In the event of an inconsistency between the meaning of terms in Schedule 1 of Tweed Local Environmental Plan 2000, the Kings Forest Concept Plan Approval and the Kings Forest Development Code Glossary, the definitions in the Glossary the Concept Plan Approval and Kings Forest Development Code shall prevail to the extent of the inconsistency.

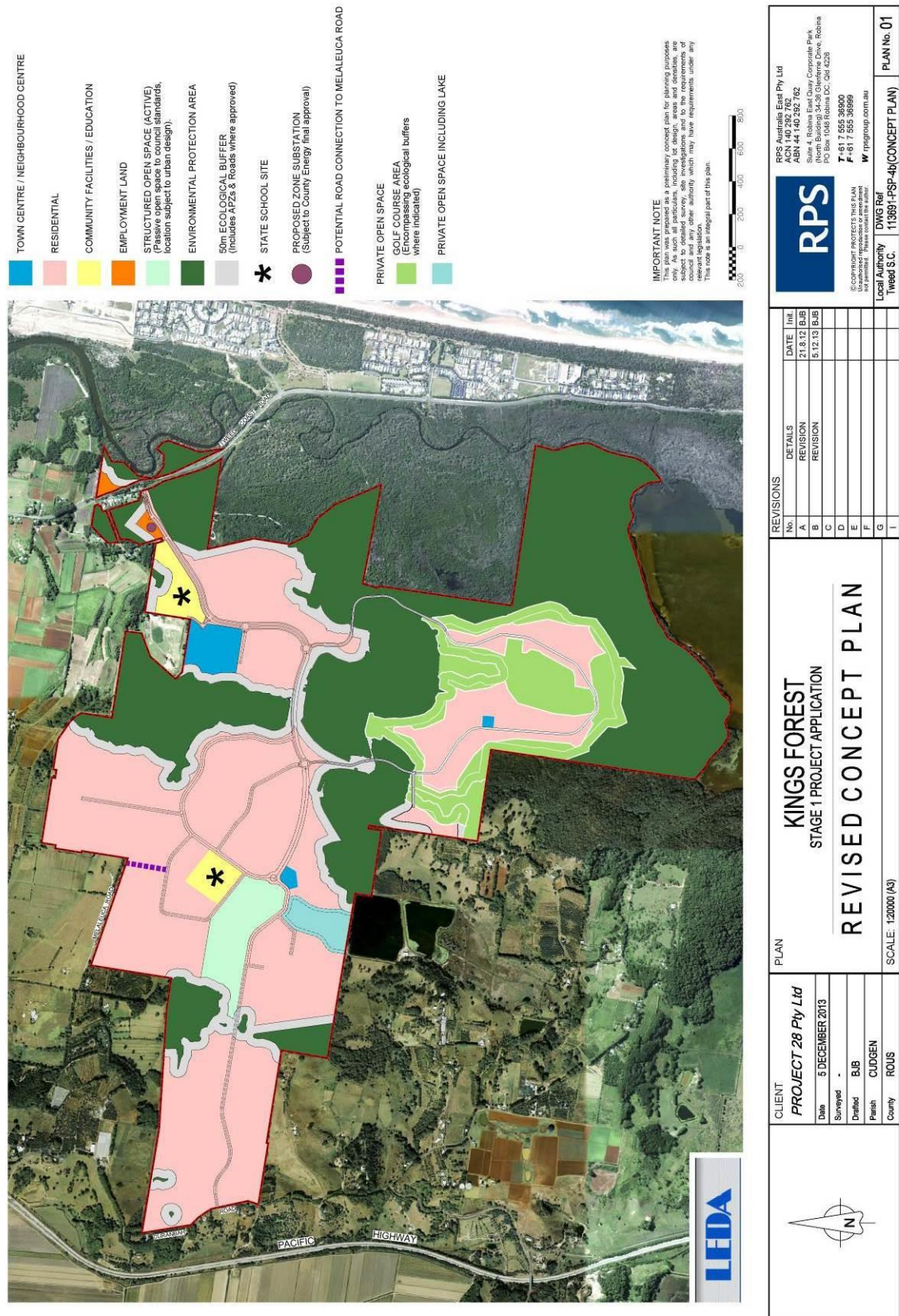


Figure 1.2.1: Revised Kings Forest Concept Plan

Precinct	Development Uses	Total Area	Urban Design Principles
Town Centre	<ul style="list-style-type: none"> <li>▪ Advertisement</li> <li>▪ Advertising structure</li> <li>▪ Amusement centre</li> <li>▪ Bed and breakfast</li> <li>▪ Business premises</li> <li>▪ Carpark</li> <li>▪ Child care centre</li> <li>▪ Centre based child care facility</li> <li>▪ Commercial premises</li> <li>▪ Community facility</li> <li>▪ Education establishment (indoor)</li> <li>▪ Entertainment facility</li> <li>▪ Environmental facility</li> <li>▪ Food and drink premises</li> <li>▪ Function Centre</li> <li>▪ Funeral chapel</li> <li>▪ Health consulting room</li> <li>▪ Health services facility</li> <li>▪ Home business</li> </ul>	11.0 ha	<ul style="list-style-type: none"> <li>▪ Urban form controlled by Plan of Development in Precinct approval</li> <li>▪ Building height controlled by Development Code</li> <li>▪ Mixed uses are encouraged</li> <li>▪ Provide legible off-street parking</li> <li>▪ All required parking located within site</li> <li>▪ Create town square focus</li> <li>▪ Buildings facing main streets are encouraged to have active frontages</li> <li>▪ Pedestrian friendly streetscape with awnings</li> <li>▪ Create interesting buildings with articulated facades</li> <li>▪ Screen or conceal passive facades and service areas</li> <li>▪ Soften visual impact of carpark with landscaping</li> <li>▪ Incorporate urban art and public streetscaping</li> <li>▪ Must demonstrate sensitive interface with surrounding development</li> <li>▪ Ground floor facing main roads must be non residential use</li> <li>▪ Landscape concept to maintain visibility of retail uses</li> <li>▪ Incorporate passive surveillance and public safety principles</li> </ul>

Precinct	Development Uses	Total Area	Urban Design Principles	
Neighbourhood Centre	<ul style="list-style-type: none"> <li>▪ Advertisement</li> <li>▪ Advertising structure</li> <li>▪ Amusement centre</li> <li>▪ Business premises</li> <li>▪ Carpark</li> <li>▪ Child care centre</li> <li>▪ Centre based child care facility</li> <li>▪ Commercial premises</li> <li>▪ Community facility</li> <li>▪ Food and drink premises</li> <li>▪ Health consulting room</li> <li>▪ Health services facility</li> <li>▪ Information and education facility</li> <li>▪ Medical centre</li> <li>▪ Office premises</li> </ul>	<ul style="list-style-type: none"> <li>▪ Place of worship</li> <li>▪ Pub</li> <li>▪ Recreation area</li> <li>▪ Recreation facility (indoor)</li> <li>▪ Registered club</li> <li>▪ Residential care facility</li> <li>▪ Restaurant</li> <li>▪ Retail premises</li> <li>▪ Roads</li> <li>▪ Seniors housing</li> <li>▪ Shop</li> <li>▪ Shop top housing</li> <li>▪ Telecommunication facility</li> <li>▪ Sewage reticulation system</li> </ul>	3.0ha	<ul style="list-style-type: none"> <li>▪ Urban form controlled by Plan of Development in Precinct approval</li> <li>▪ Building height controlled by Development Code</li> <li>▪ Mixed uses are encouraged</li> <li>▪ Provide legible off-street parking</li> <li>▪ All required parking located within site</li> <li>▪ Incorporate public transport interchange</li> <li>▪ Create town square focus</li> <li>▪ Buildings facing main streets are encouraged to have active frontages</li> <li>▪ Pedestrian friendly streetscape with awnings</li> <li>▪ Create interesting buildings with articulated facades</li> <li>▪ Screen or conceal passive facades and service areas</li> <li>▪ Soften visual impact of carpark with landscaping</li> <li>▪ Incorporate urban art and public streetscaping</li> <li>▪ Must demonstrate sensitive interface with surrounding development</li> <li>▪ Ground floor facing main roads must be non residential use</li> <li>▪ Landscape concept to maintain visibility of retail uses</li> <li>▪ Incorporate passive surveillance and public safety principles</li> </ul>
Residential	<ul style="list-style-type: none"> <li>▪ Affordable housing</li> <li>▪ Bed and breakfast accommodation</li> <li>▪ Carpark</li> <li>▪ Child care centre</li> <li>▪ Centre based child care facility</li> <li>▪ Community facility</li> <li>▪ Environmental facility</li> <li>▪ Exhibition home</li> <li>▪ Exhibition village</li> <li>▪ Health services facility</li> <li>▪ Home business</li> </ul>	<ul style="list-style-type: none"> <li>▪ Home occupation</li> <li>▪ Recreation area</li> <li>▪ Recreation facility (indoor)</li> <li>▪ Recreation facility (outdoor)</li> <li>▪ Residential care facility</li> <li>▪ Residential types in Development Code</li> <li>▪ Roads</li> <li>▪ Secondary dwelling</li> <li>▪ Seniors housing</li> <li>▪ Sewage reticulation system</li> </ul>	401ha	<ul style="list-style-type: none"> <li>▪ Urban form controlled by Plan of Development in Precinct approval and in the Development Code</li> <li>▪ Building height controlled by Development Code</li> <li>▪ Principally higher-density housing forms and smaller lots</li> <li>▪ Create diversity of housing choice</li> <li>▪ Incorporate public open space within walkable radius of each dwelling</li> <li>▪ Designs must optimise residential amenity, privacy and solar access dwelling</li> <li>▪ Strong streetscape character with articulated setbacks</li> <li>▪ Repetitive designs and long buildings are discouraged</li> <li>▪ Incorporate passive surveillance and public safety principles</li> </ul>

Precinct	Development Uses	Total Area	Urban Design Principles	
Community Facilities/ Education	<ul style="list-style-type: none"> <li>▪ Carpark</li> <li>▪ <del>Child care centre</del></li> <li>▪ Centre based child care facility</li> <li>▪ Community facility</li> <li>▪ Education establishment</li> <li>▪ Emergency services facility</li> <li>▪ Environmental facility</li> <li>▪ Information and education facility</li> </ul>	<ul style="list-style-type: none"> <li>▪ Kiosk</li> <li>▪ Place of worship</li> <li>▪ Recreation facility(indoor)</li> <li>▪ Recreation facility( outdoor)</li> <li>▪ Roads</li> <li>▪ Seniors housing</li> <li>▪ Sewage reticulation system</li> </ul>	14.5ha	<ul style="list-style-type: none"> <li>▪ Locate school buildings with integrated parking and shared facilities</li> <li>▪ Provide adequate safe setdown areas</li> <li>▪ Sporting facilities may be shared between schools and community</li> <li>▪ Must demonstrate sensitive interface with surrounding development</li> <li>▪ Enhance community education on surrounding environment</li> </ul>
Employment Land	<ul style="list-style-type: none"> <li>▪ Advertisement</li> <li>▪ Advertising structure</li> <li>▪ Amusement centre</li> <li>▪ Business premises</li> <li>▪ Carpark</li> <li>▪ <del>Child care centre</del></li> <li>▪ Centre based child care facility</li> <li>▪ Electricity transmission or distribution network</li> <li>▪ Emergency services facility</li> <li>▪ Food and drink premises (other than pubs or small bars)</li> <li>▪ Garden centre</li> <li>▪ Kiosk</li> </ul>	<ul style="list-style-type: none"> <li>▪ Landscape and garden supplies</li> <li>▪ Light industry</li> <li>▪ Office premises</li> <li>▪ Recreation area</li> <li>▪ Roads</li> <li>▪ Rural supplies</li> <li>▪ Service station</li> <li>▪ Sewage reticulation system</li> <li>▪ Storage premises</li> <li>▪ Transport depot</li> <li>▪ Truck depot</li> <li>▪ Vehicle repair station</li> <li>▪ Veterinary hospital</li> </ul>	7.0ha	<ul style="list-style-type: none"> <li>▪ Provision of diverse employment opportunities</li> <li>▪ Controlled by Development Code</li> <li>▪ All required parking located within site</li> <li>▪ Maintain vegetated buffer to other land uses</li> <li>▪ Must demonstrate sensitive interface with surrounding development</li> </ul>
Golf Course	<ul style="list-style-type: none"> <li>▪ Carpark</li> <li>▪ Environmental facility</li> <li>▪ Hotel or motel accommodation</li> <li>▪ Recreation facility (outdoor)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Registered club</li> <li>▪ Roads</li> <li>▪ Sewage reticulation system</li> </ul>		<ul style="list-style-type: none"> <li>▪ Course layout must address personal safety for residents</li> <li>▪ Maintenance facility to be located in screened location away from residential development</li> <li>▪ Address golf course nutrient management</li> <li>▪ Integrate buffers within golf course layout</li> </ul>
Public Open Space	<ul style="list-style-type: none"> <li>▪ Carpark</li> <li>▪ Community facility</li> <li>▪ Environmental facility</li> <li>▪ Food and drink premises</li> <li>▪ Kiosk</li> </ul>	<ul style="list-style-type: none"> <li>▪ Recreation area</li> <li>▪ Recreation facility (indoor)</li> <li>▪ Recreation facility (outdoor)</li> <li>▪ Roads</li> <li>▪ Sewage reticulation system</li> </ul>	17.0ha	<ul style="list-style-type: none"> <li>▪ Include range of active and passive uses</li> <li>▪ Incorporate community facilities appropriate to residents' needs such as ovals, amenities and carparking</li> <li>▪ Sporting facilities may be shared between schools and community</li> <li>▪ Incorporate stormwater path and treatment</li> </ul>
Environmental Protection Area	<ul style="list-style-type: none"> <li>▪ Environmental facilities</li> <li>▪ Environmental protection works</li> <li>▪ Roads</li> </ul>		336.5ha	<ul style="list-style-type: none"> <li>▪ Incorporate low-impact community trails for public and service access</li> <li>▪ Provide linkages in accordance with the Pedestrian and Cycle Network Plan</li> </ul>

Precinct	Development Uses	Total Area	Urban Design Principles
Proposed Lake	<ul style="list-style-type: none"> <li>▪ Recreation area</li> <li>▪ Recreation facility (indoor)</li> <li>▪ Recreation facility (major)</li> <li>▪ Recreation facility (outdoor)</li> <li>▪ Water body (artificial)</li> <li>▪ Water recreation structure</li> </ul>	9.0ha	<ul style="list-style-type: none"> <li>▪ Provide low-impact public access</li> <li>▪ Provide linkages in accordance with the Pedestrian and Cycle Network Plan</li> </ul>
Major Roads		24.0ha	
TOTAL		856.5ha	

**Figure 1.2.2: Precinct development matrix**

## 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 *dwelling types* provided across the site with a particular focus on attractive residential streetscapes structured around well connected, walkable neighbourhoods.

The Kings Forest Town Centre and the Neighbourhood Centre will be focal points for community interaction, civic and community facilities and retailing. Local work options will be provided through the local centres and home based activities.

### 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 Kings Forest as envisaged by the Kings Forest *concept plan*.
- (6) Promote high quality urban design outcomes.

## 1.5 Structure of the Code

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

<b>Introduction</b>	<b>Section 1:</b>	Code's administrative provisions.
<b>Part A</b>	<b>Section 2:</b>	Exempt and Complying Development.
<b>Part B</b>	<b>Section 3:</b>	Residential development that is not Exempt or Complying Development.
Development that is not Exempt or Complying Development	<b>Section 4:</b>	Kings Forest Town Centre and Neighbourhood Centres.
	<b>Section 5:</b>	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).
<b>Glossary</b>	<b>Appendix A:</b>	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.<sup>2</sup>

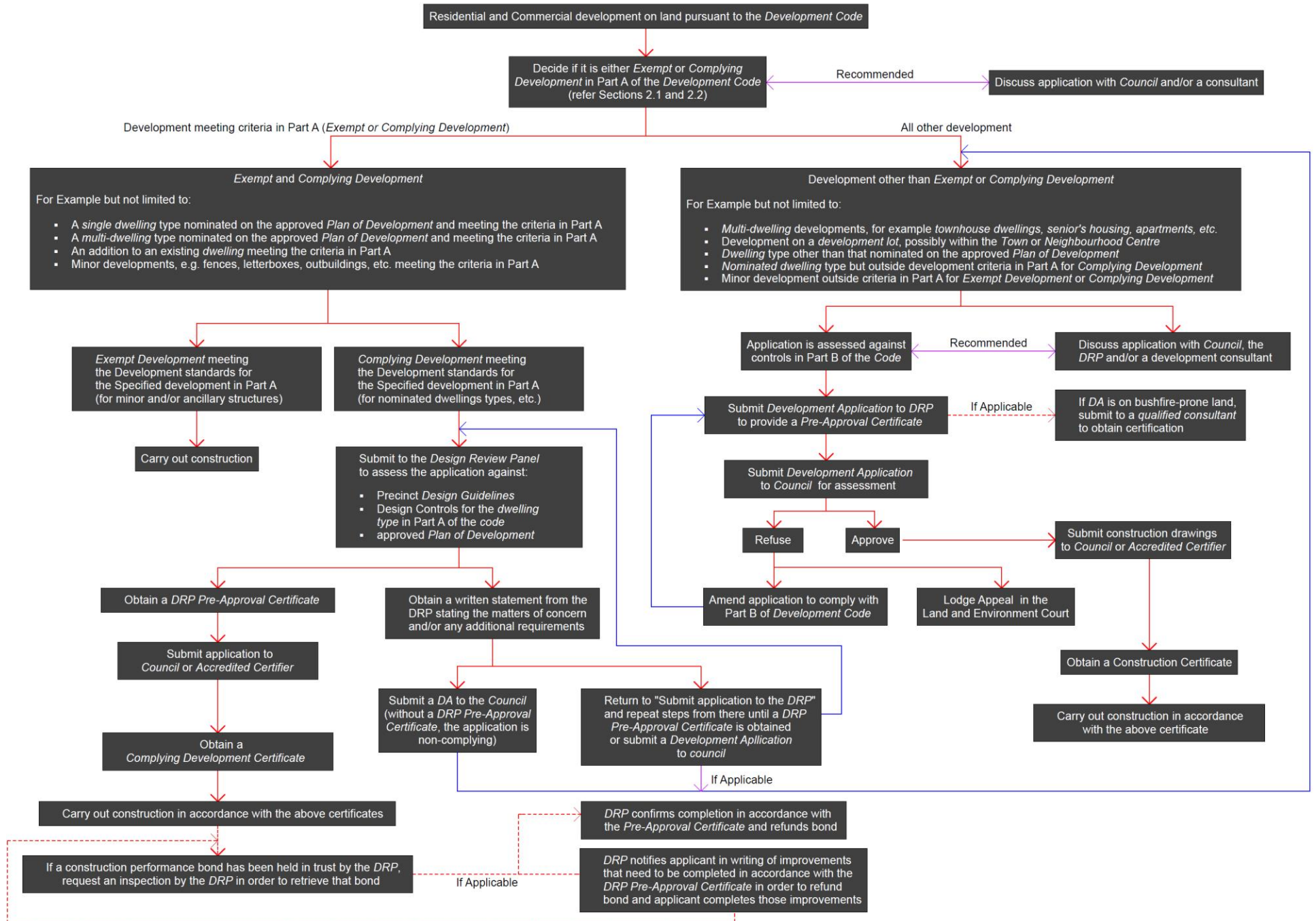
If you are lodging the first subdivision DA for the Kings Forest site, you must prepare and submit with the DA a Precinct Plan, Plan of Development and *design guidelines*.

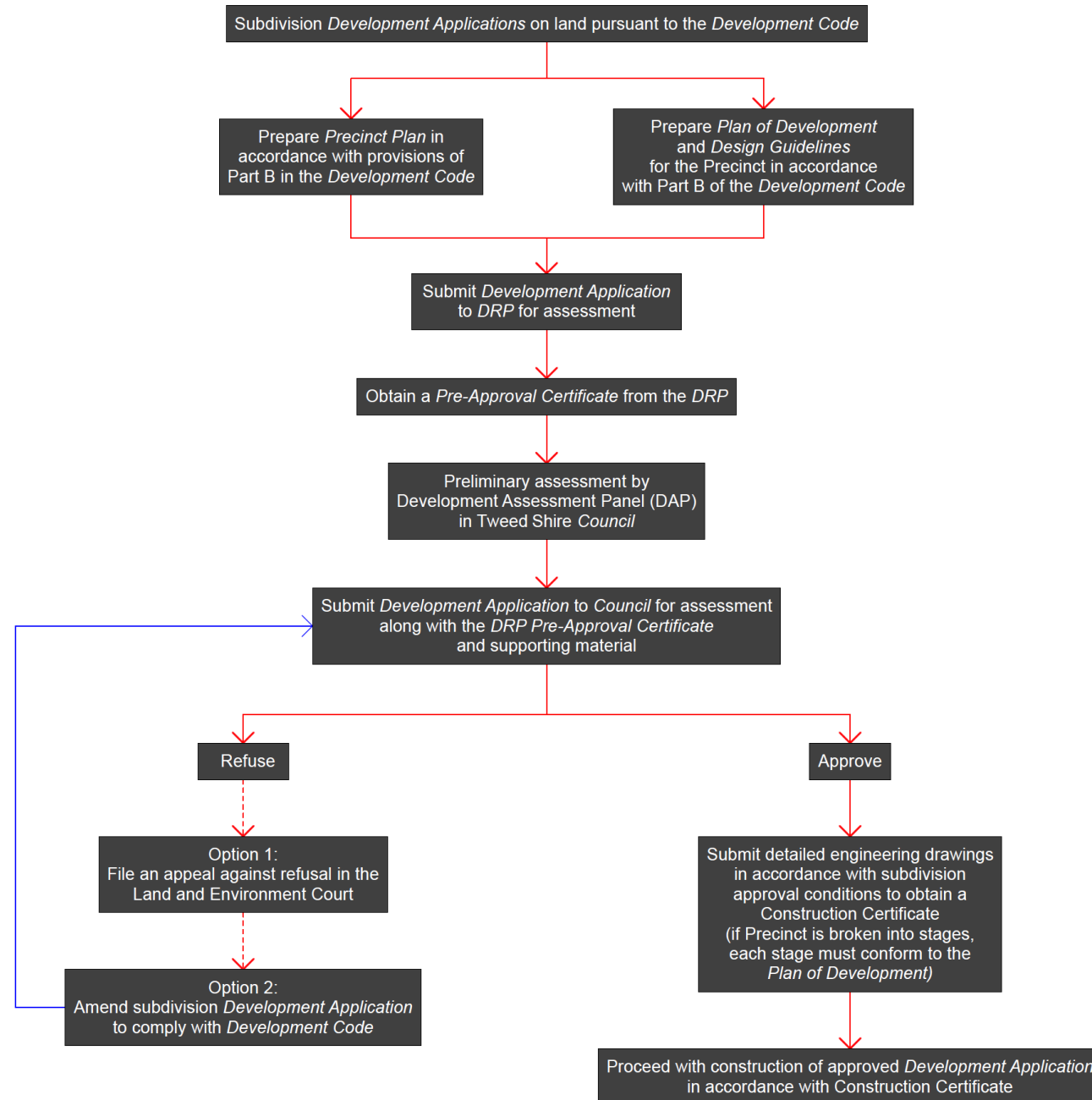
All DAs must comply with the (relevant) Precinct Plan, *plan of development* and *design guidelines* - see **Part B** of the *Code*. Check that your proposal complies with those provisions before you lodge your DA with *Council* or an *accredited certifier*.

<sup>1</sup> Complying Development includes traditional detached, soho, terrace, zero-lot, plex and mews dwellings.

<sup>2</sup> 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.







## 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 Kings Forest and contains site specific development controls for land within Kings Forest.

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*;~~
- ♦ *Tweed Community Engagement and Participation Plan 2019-2024*

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 Kings Forest 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

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 2m<sup>2</sup>, 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 600m<sup>2</sup> 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 10m<sup>2</sup>, 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

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

- (a) not have an area more than 6m<sup>2</sup>, 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 200m<sup>2</sup> in area.

### 2.1.12 Development standards

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 20m<sup>2</sup>, 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

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

- (a) not have an area of more than 3m<sup>2</sup>, 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 or a Residential Precinct and if it is not constructed or installed on a lot of 200m<sup>2</sup> or less in area.

### 2.1.16 Development standards

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 300m<sup>2</sup>, 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 20m<sup>2</sup> for lots of 800m<sup>2</sup> or greater and 9m<sup>2</sup> 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 Business Identification Sign (in areas beyond Town Centre or Neighbourhood Centre)

#### 2.1.19 Specified development

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

**Note.** See Advertising Signs and Business Identification Signs in the Town Centre and Neighbourhood Centres. Refer to **Division 2 Commercial Exempt Development Code**.

#### 2.1.20 Development standards

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

## Subdivision 11 Clothes hoists and clothes lines

### 2.1.21 Specified development

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

### 2.1.22 Development standards

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 12 Demolition

### 2.1.23 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.

### 2.1.24 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 13 Driveways

### 2.1.25 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.

### 2.1.26 Development standards

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 a development consent or a design guideline document applies to the land, be constructed only of materials permitted by these documents.

## **Subdivision 14 Earthworks and retaining walls**

### **2.1.27 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.

### **2.1.28 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 15 Events on Council Administered Land**

### **2.1.29 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.

### **2.1.30 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 16 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

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 17 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 2.5m<sup>2</sup> and must not be used for advertising.

## Subdivision 18 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 19 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 20 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**

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 21 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**

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 22 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 23 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**

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 24 Minor building alterations (external)**

#### **2.1.49 Specified development**

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**

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 25 Noxious Weed Control**

### **2.1.51 Specified development**

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

### **2.1.52 Development standards**

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 26 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**

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 27 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**

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, and

### **Subdivision 28 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 200m<sup>2</sup> 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 29 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 200m<sup>2</sup> or less in area.

#### **2.1.60 Development standards**

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 30 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

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 town water without the prior approval of the local water authority.
- (4) In this clause:
- educational establishment** means a building or place used for education (including teaching) and includes a pre-school, a *school*, a tertiary institution that provides formal education (such as a university or TAFE establishment) and an art gallery or museum that is not used to sell the items displayed in it (whether or not the building or place is also used for accommodation for staff or students).

## 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 town water 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

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*, 2.17m<sup>2</sup>, and
  - (ii) if advertising a Multi-dwelling development of less than ten (10) *dwellings*, 8.64m<sup>2</sup>, and

- (iii) if advertising a Multi-dwelling development of ten (10) or more *dwellings*, 20m<sup>2</sup>, and
- (iv) if advertising a commercial building, is 4.34m<sup>2</sup>, and
- (v) if advertising a commercial or industrial property, is 20m<sup>2</sup>, and
- (vi) if advertising a subdivision of less than two (2) hectares, is 8.64m<sup>2</sup>, and
- (vii) if advertising a subdivision of between two (2) and ten (10) hectares, is 17.28m<sup>2</sup>, and
- (viii) if advertising a subdivision of more than ten (10) hectares, is 20m<sup>2</sup>.

### 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

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

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 **roof gutter 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 9m<sup>2</sup>, 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 900mm 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) ~~if it is not located on bush fire prone land~~ — have at least two-thirds of its perimeter comprising open screen mesh material, and
- (j1) ~~if it is located on bush fire prone land~~ — cover all openings, including any sub-floor areas, operable windows, vents and eaves, and be made of a non-corrosive metal material with a maximum aperture of 2mm, 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, and
- (l) ~~if it is constructed or installed in a heritage conservation area or a draft heritage conservation area~~—not be attached to any balcony, deck, patio, pergola, terrace or verandah that faces any road.

### 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

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 15m<sup>2</sup> for *single dwelling* lots of 300m<sup>2</sup> or more or otherwise 9m<sup>2</sup>, 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**

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**

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**

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**

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 10m<sup>2</sup>, and
- (c) be located behind the *frontage building line* of any road frontage, and
- (d) be consistent with the Kings Forest Koala Plan of Management.

## 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 1.5m<sup>2</sup> 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 2.5m<sup>2</sup> 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 2.5m<sup>2</sup> 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 2.5m<sup>2</sup> 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

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

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 Kings Forest 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.**

**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 *SOHO 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) *traditional detached dwelling, terrace dwelling, zero-lot dwelling, SOHO dwelling, plex dwelling, mews dwelling, granny flat* 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 *single dwelling, granny flat, plex dwelling* or *mews dwelling*, or as an addition or alteration to an existing *single dwelling, granny flat, plex dwelling, mews dwelling*, 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 *single dwelling, plex dwelling* or *mews dwelling*, or
  - (b) an existing or a new *outbuilding* that is *detached* from a *single dwelling, plex dwelling* or *mews dwelling*,
 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) This clause applies:
  - (a) to all development specified for this code that is to be carried out on a lot that is wholly or partly bush fire prone land (other than development that is the erection of non-habitable ancillary development that is more than 10m from any dwelling house, landscaping, a non-combustible fence or a swimming pool), and
  - (b) in addition to all other development standards specified for this code.
- (2) The development may be carried out on the lot only if:
  - (a) the development conforms to the specifications and requirements of the following that are relevant to the development:
    - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
    - (ii) *Addendum: Appendix 3* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
    - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document, and
  - (b) the part of the lot on which the development is to be carried out is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
  - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
  - (d) a reticulated water supply is connected to the lot, and
  - (e) a fire hydrant is located less than 60 metres from the location on the lot of the proposed development, and
  - (f) mains electricity is connected to the lot, and

- (g) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2008, *The storage and handling of LP Gas* and the requirements of relevant authorities (metal piping must be used), and
- (h) any gas cylinders on the lot that are within 10m of a dwelling house:
  - (i) have the release valves directed away from the dwelling house, and
  - (ii) are enclosed on the hazard side of the installation, and
  - (iii) have metal connections to and from the cylinders, and
- (i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

**Note.** The requirements of AS 3959—2009, *Construction of buildings in bushfire-prone areas* set out in the *Building Code of Australia* also apply.

- (3) A standard specified in subclause (2) (b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
  - (a) until 25 February 2012—the NSW Rural Fire Service, or
  - (b) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
  - (c) the council.

**Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

## 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 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 400m<sup>2</sup>, 1.5 times the area of the lot for a two or three *storey dwelling*; *and*
  - (b) on a lot of at least 400m<sup>2</sup>, 1.25 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) a void above a lower *storey*.

#### **2.2.2(aa) Maximum floor area for Granny Flats**

- (1) The *floor area* of a *granny flat* must not be more than 60 square metres; and
- (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.

#### **2.2.2(ab) Maximum floor area for SOHO Dwellings**

- (1) The *floor area* of the residential component of a *SOHO dwelling* must not be more than the maximum *floor area* allowed for a *dwelling* on the site as provided in **Section 2.2.2** above; and
- (2) The *floor area* of the commercial component of a *SOHO dwelling* must not exceed 66 square metres.

#### **2.2.3 Maximum floor area for Outbuildings**

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

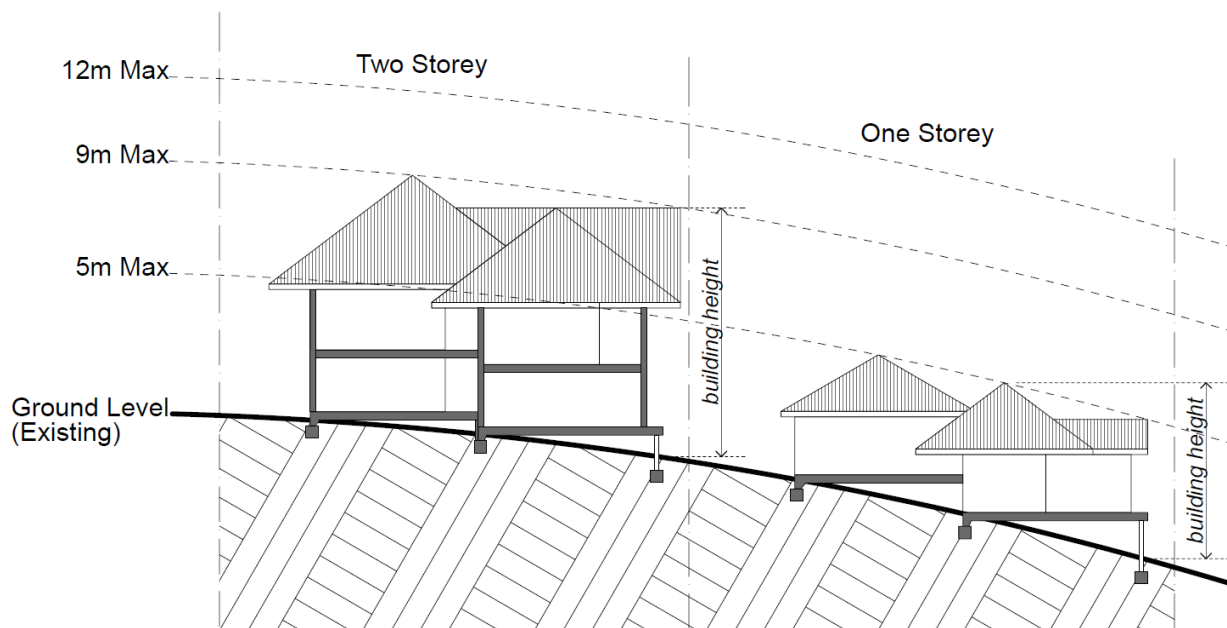
***floor area*** means the sum of the areas of each *storey* of the *outbuilding*, measured at a *height* of 1.4m above each floor level, where the area of each *storey* is taken to be the area within the outer face of:

  - (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* 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).



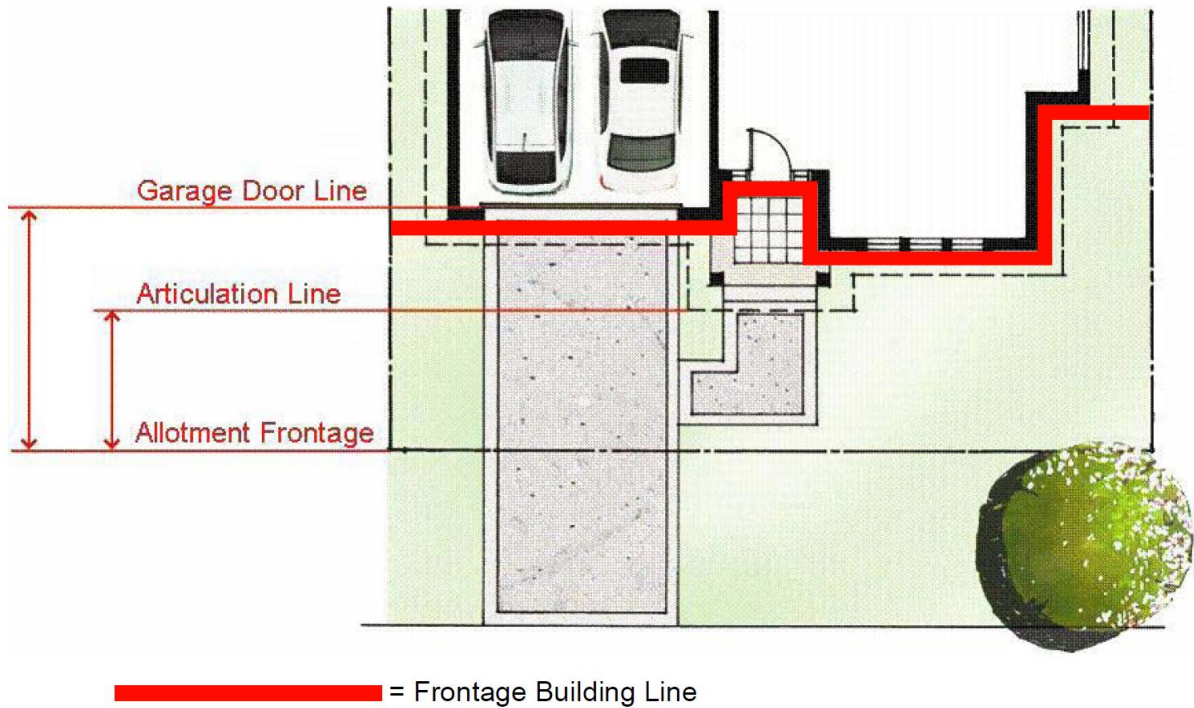
**Figure 2.2.4.1 Overall Building Height**

**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 *terrace dwellings* and *SOHO dwellings*.

## 2.2.5 Setbacks of Dwellings 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 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 and Ancillary Development from boundary with road (not classified road)**

Effective Lot Width	5m -10m	>10m – 15m (+ Plex /Mews lots)	>15m	Measured to
Primary Road Frontage Articulation Zone	1m	2m	3m	outermost projection
Secondary Road Frontage Articulation Zone	0.5m	1.5m	2.5m	outermost projection
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	4.5m for a double garage and 5.5m for a single garage	4.5m for a double garage and 5.5m for a single garage	6m	To the wall containing the garage door
Garage door line measured to the rear laneway or parallel road frontage	1m	1m	2m	To the wall containing the garage door
Rear Lane Setback to Structure above ground floor garage	0.3m	0.3m	0.3m	outermost projection

**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 *detached dwelling house, terrace dwellings, SOHO dwellings, plex dwellings, and mews dwellings*, in the case of the transition between the primary and secondary frontage *setbacks*, the lesser *setback* applies (see Figure 2.2.5.2 below).

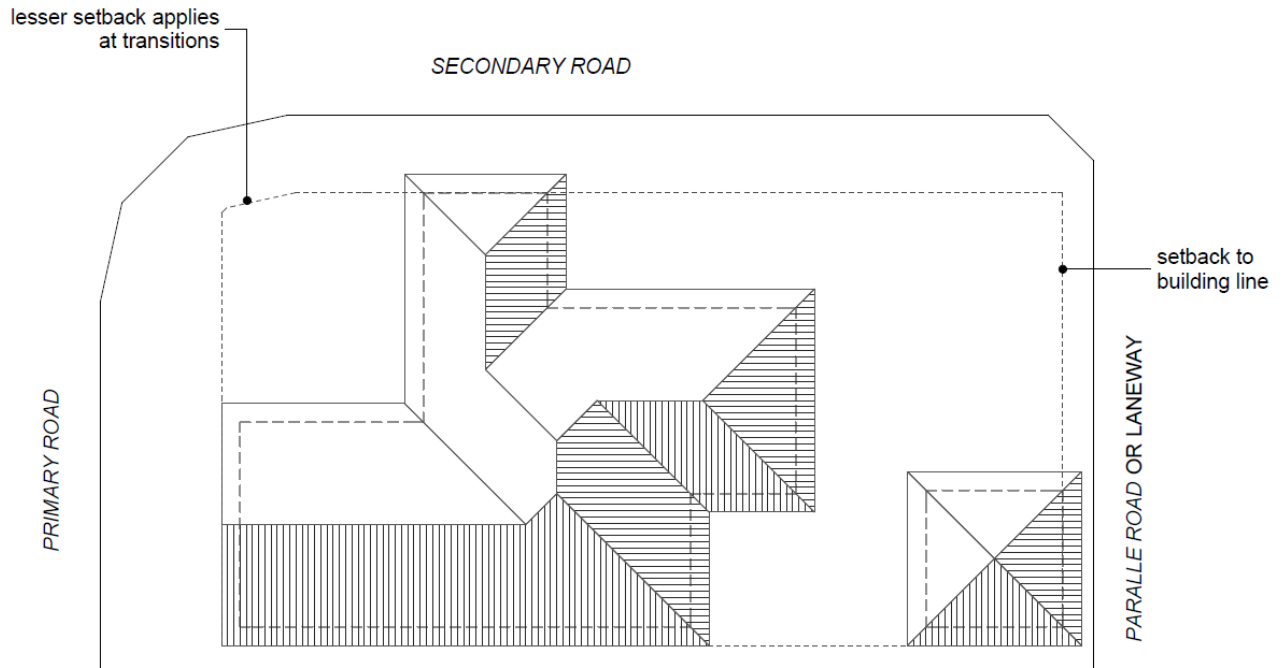


Figure 2.2.5.2 Frontage setbacks for corner lots

## 2.2.6 Side and rear boundary Setbacks for Traditional Detached Dwellings and certain Ancillary Development

- (1) A Traditional 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 *traditional detached dwelling* 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 Traditional Detached Dwellings and certain Ancillary Development**

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

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

**Note 2.** for *outbuildings*, refer to clause 2.2.7 below.

## 2.2.7 Side and rear boundary Setbacks for Zero-lot, Soho or Terrace Dwellings, (detached) Outbuildings and certain (attached) Ancillary Development

- (1) 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 Zero-lot, Soho or *terrace dwelling* 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 Zero-lot, Soho or Terrace Dwellings, Plex Dwellings and Mews Dwellings, Outbuildings (detached) and certain Ancillary (attached) Development**

Effective Lot Width	5m -10m	>10m – 15m	>15m	Plex and Mews Dwellings
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	Not applicable
<i>Built-to-boundary wall</i> Setback	0.025m to 0.25m	0.025m to 0.25m	0.025m to 0.25m	Not applicable
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 18m or 55% of the length of the <i>shared boundary</i>	The lesser of 18m or 55% of the length of the <i>shared boundary</i>	Not applicable

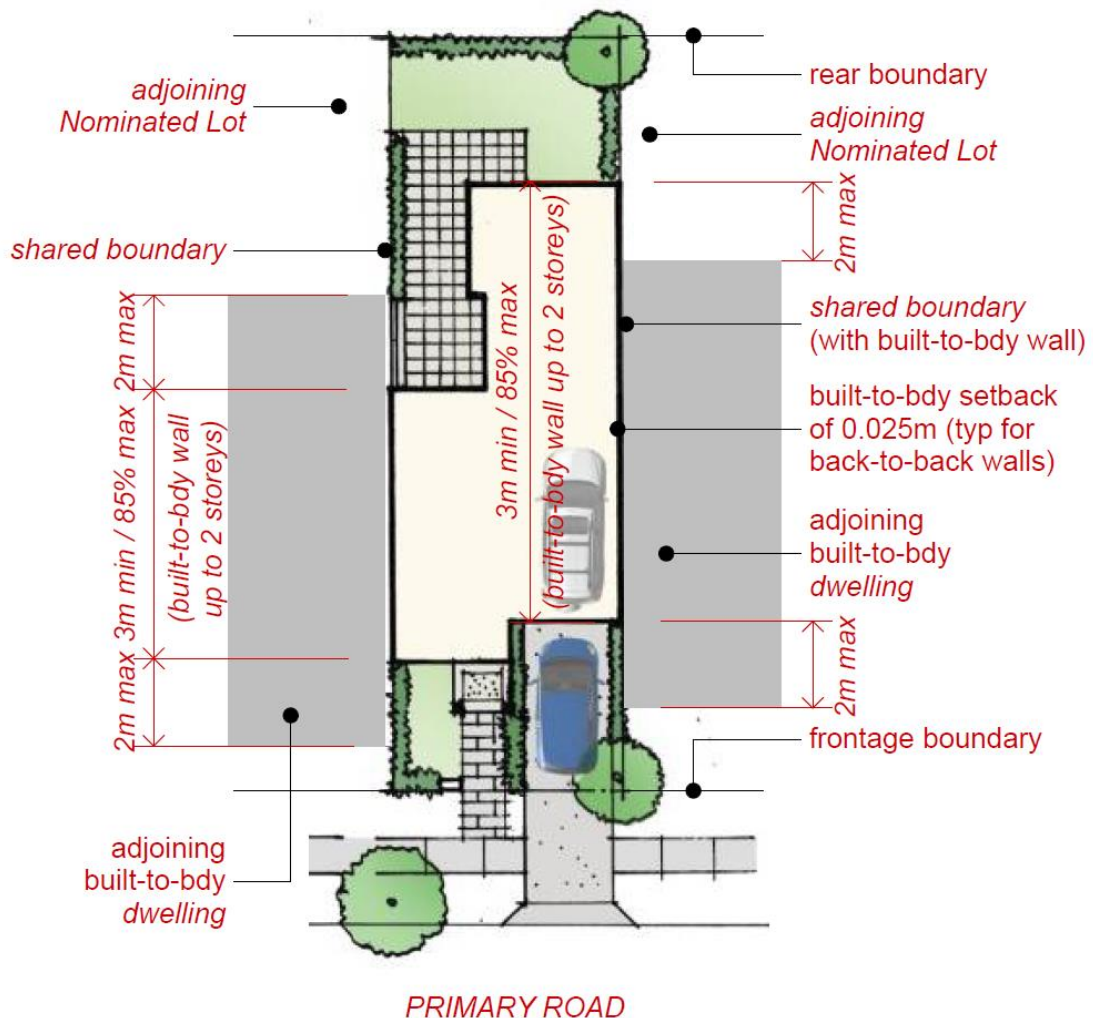
Effective Lot Width	5m -10m	>10m – 15m	>15m	Plex and Mews Dwellings
Maximum Extent of <i>built-to-boundary</i> walls up to 2 Storeys	No more than 85% of the length of the <i>shared boundary</i> and no more than 2m in plan and 1m in elevation variance to any <i>built-to-boundary</i> construction on the adjoining lot boundary	Not applicable	Not applicable	Not applicable
Ground Floor Setback (to any <i>shared boundary</i> that <b>is</b> designated for <i>built-to-boundary</i> construction, but excluding <i>built-to-boundary</i> walls)	1.2m to wall	1.5m to wall	Not applicable	Not applicable
Ground Floor Setback (to any <i>shared boundary</i> that <b>is not</b> designated for <i>built-to-boundary</i> construction)	1.2m-to to wall	1.5m to-wall	1.5m to wall	0.9m to wall
First Floor Setback (to <i>shared boundaries</i> , excluding Built-to-boundary walls but including parts over 4.5m high)	1.2m to wall	1.5m to wall	2m to wall	1.2m to wall
Second Floor Setback (to <i>shared boundaries</i> , if permitted, including all parts over 8.5m high)	2m to wall	2m to wall	2.5m to wall	2m to wall
Rear Boundary Setback (ground and first floors, excluding rear lanes)	3m to wall	3.5m to wall	4m to wall	2m to wall
Rear Boundary Setback (second floors, excluding rear lanes)	4m to wall	4.5m to wall	5m to wall	3m to wall
Rear <i>articulation zone</i> Setback (ground and first floors, excluding rear lanes)	2m to <i>outermost projection</i>	2.5m to <i>outermost projection</i>	3m to <i>outermost projection</i>	2m to <i>outermost projection</i>
Rear <i>articulation zone</i> Setback (second floors, excluding rear lanes)	3m to <i>outermost projection</i>	3.5m to <i>outermost projection</i>	4m to <i>outermost projection</i>	3m 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 0.60m to any lot boundary.

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



**Figure 2.2.7.1 Explanatory Diagram for Side and Rear Boundary Setbacks, Soho or Terrace Dwellings, (detached) Outbuildings and certain (attached) Ancillary Development**

## 2.2.8 Exceptions to all side and rear Setbacks

Despite any other clause in Subdivision 2 *building heights and setbacks*:

- (a) a *single dwelling, plex dwelling, mews dwelling* 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 driveway, pathway or paving,
  - a fence or screen,
  - a retaining wall,
  - 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	5m -10m	>10m – 15m	>15m
Minimum Landscape Area for a Single <i>dwelling</i> s	5%**	10%**	20%**
Minimum Landscape Area For Plex and <i>mews dwelling</i> s	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

- (2) The *landscaped area* must have a minimum dimension of at least 0.75m.

### 2.2.13 Private Open Space (POS)

- (1) *Single dwelling*, *plex dwelling* or *mews dwelling*, must have the following minimum *private open space*:

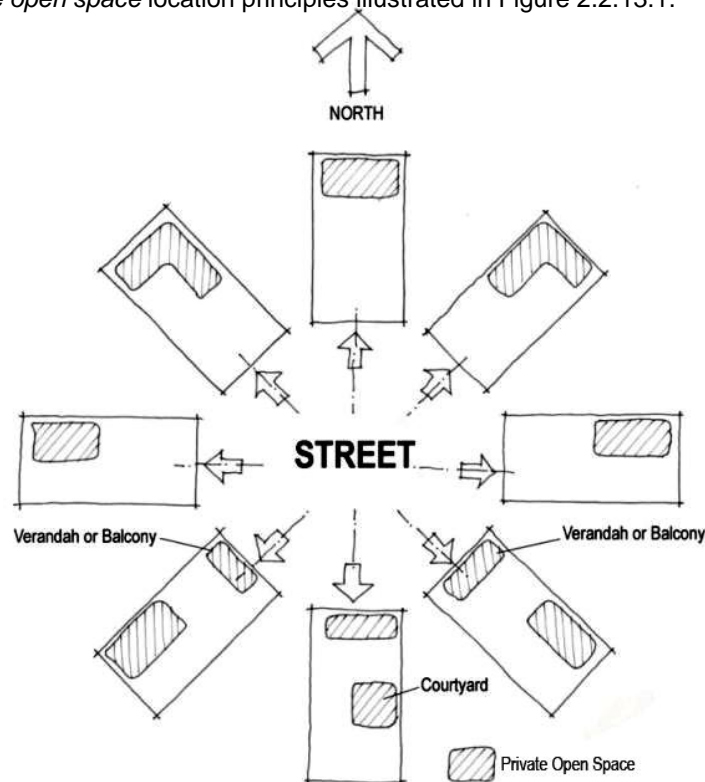


**Table 2.2.13.1 Minimum Private Open Space**

Effective Lot Width	5m -10m	>10m – 15m	>15m	Plex or Mews Dwellings
Private Open space (POS) at ground level	Min. 15m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	Min. 20m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	25m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy	25m <sup>2</sup> 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 <sup>2</sup> if provided as a semi private balcony or rooftop with a min. dimension of 2.1m	Min. 12m <sup>2</sup> if provided as a semi private balcony or rooftop with a min. dimension of 3m	Not applicable	9m <sup>2</sup> 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**

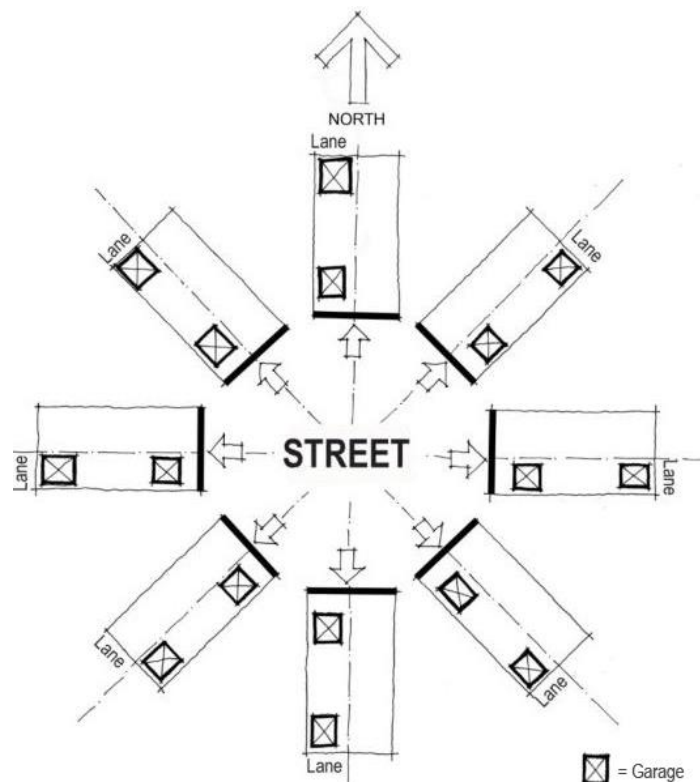
- (1) Off-street car parking spaces must be provided as per the rates specified in **Table 2.2.14.1** or as nominated on a *plan of development*, whichever is the lesser.

**Table 2.2.14.1 Car Parking Requirements**

Dwelling Type	Car Parking Required
Traditional Detached Dwelling	Minimum 2 spaces (1 covered)
Zero Dwelling	Minimum 2 spaces (1 covered)
Terrace Dwelling	Minimum 1 space (covered)
Plex or Mews	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>
SOHO	Residential Component - Minimum 2 spaces (1 covered) Commercial Component – 1 space per 66m <sup>2</sup> GFA
Granny Flat	No additional car parking required Note 1. <i>granny flat</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 *frontage 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 *frontage 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

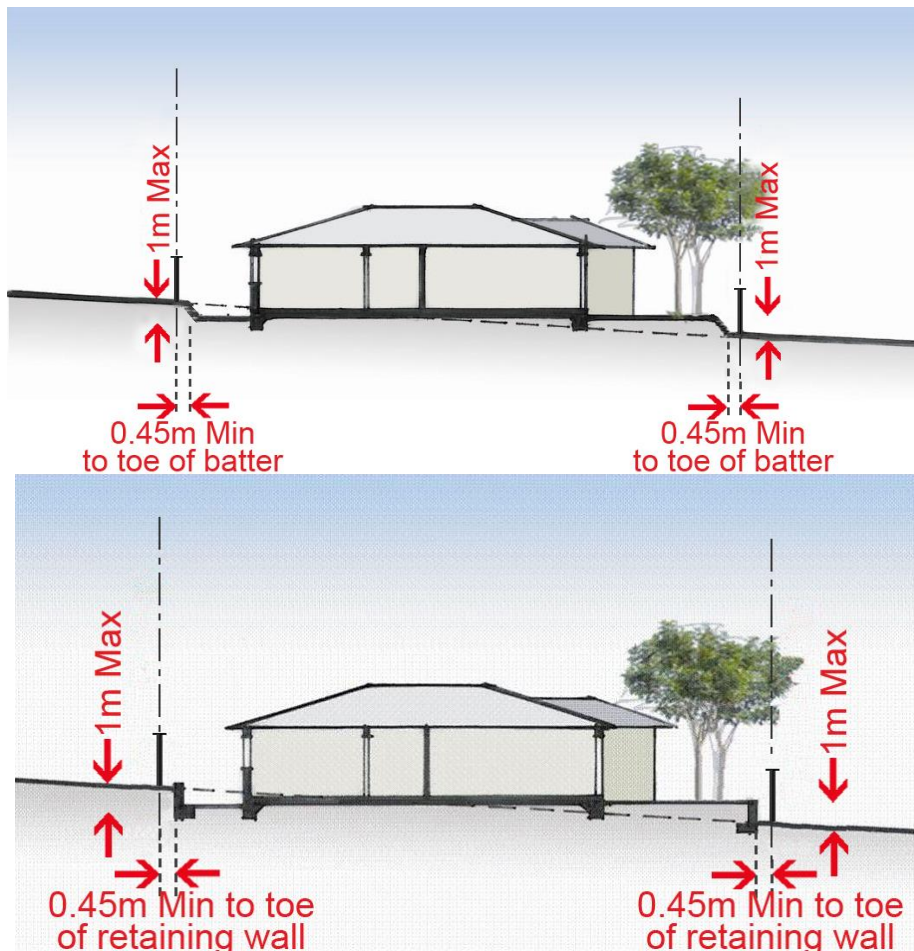
- (1) Excavation associated with the erection of, or alterations or additions to, a *single dwelling*, *plex dwelling*, *mews dwelling* or *ancillary development* (other than a swimming pool) must:
  - (a) be not more than 1m below *ground level (existing)*, unless retained and backfilled to the wall 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 *single dwelling, plex dwelling, mews dwelling or ancillary development* must be:
  - (i) if in excess of 1m, contained wholly within the external walls of the *dwelling or ancillary development*, or
  - (ii) 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
  - (iii) 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.



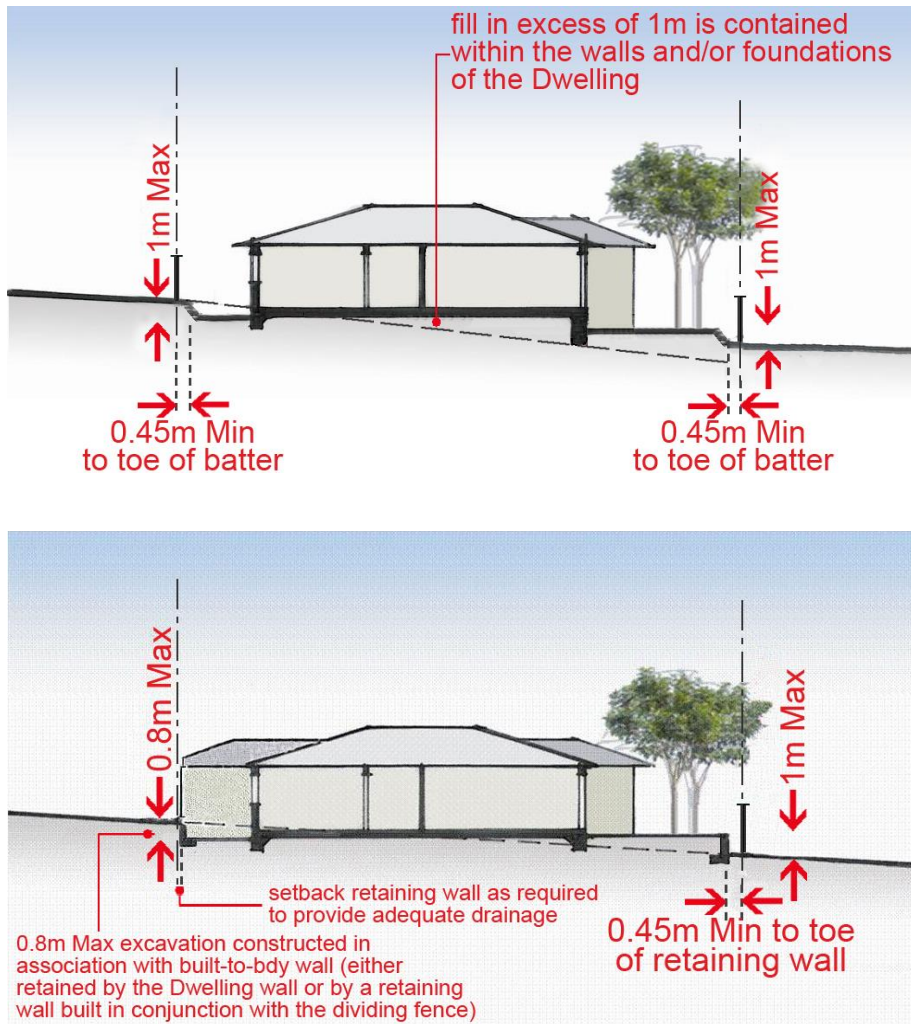


Figure 2.2.18.1 Retaining Walls and unprotected embankments

### 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:
- not require cut or fill more than 1m below or above *ground level (existing)*, and
  - 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
  - if less than 0.45m from any boundary, be not higher than 0.8m in *height*, and
  - in all other situations, not be higher than 1.2m in *height*, and
  - be located at least 6m from a waterbody (existing), and
  - 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
  - have relevant construction details submitted with any application for a retaining wall.
- (2) A retaining wall must:
- have adequate drainage lines behind it, and
  - not redirect the flow of surface water onto an adjoining property, and
  - 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**

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 *single dwelling, plex dwelling or mews dwelling 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, 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 *single dwelling, plex dwelling or mews dwelling 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 6m<sup>2</sup> 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) For the purpose of koala protection, a swimming pool must incorporate one or more of the following measures:
  - (a) the pool is constructed with steps (note: ladders do not comply); or
  - (b) the pool is constructed with a 'beach' type access where the pool water is level with part of the surrounding pavement; or
  - (c) fencing is provided around the pool with no gaps of greater than 50mm.
- (8) 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.
- (9) 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.

#### **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	A minimum of 0.5m.	0.6m minimum and 0.9m maximum	Solid masonry, a combination of solid masonry and transparent, or transparent or translucent	A maximum of 50% of the total length of the frontage boundary. (including any gates)	Landscape planting is required between the frontage boundary and the fence.
Fencing to a primary or Secondary Road frontage providing privacy for a private open space	A minimum of 0.5m.	1.5m	Solid masonry, a combination of 30% maximum solid masonry and transparent, or transparent or translucent	A maximum of 50% of the total length of the frontage boundary. (including any gates)	Landscape planting is required between the frontage boundary and 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.	1.5	Solid masonry, a combination of 30% maximum solid masonry and transparent, transparent or translucent	A maximum of 50% of the total length of the frontage boundary. (including any gates)	Landscape planting is required between the frontage boundary and the fence.

\*If fencing is solid masonry and incorporates the retaining of fill (maximum 0.6m), the height of the solid fence above Ground Level (existing) may be increased by 0.3m.

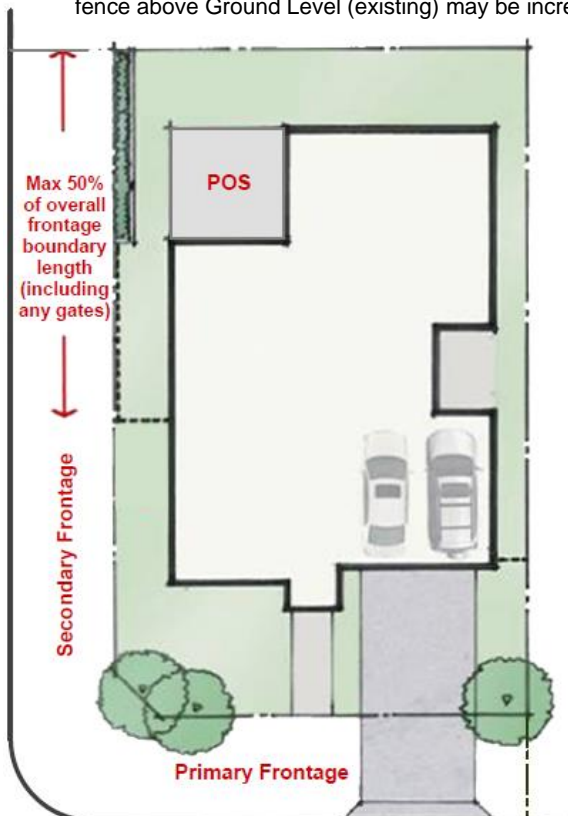


Figure 2.2.24.1 Solid fencing extending to part of a boundary

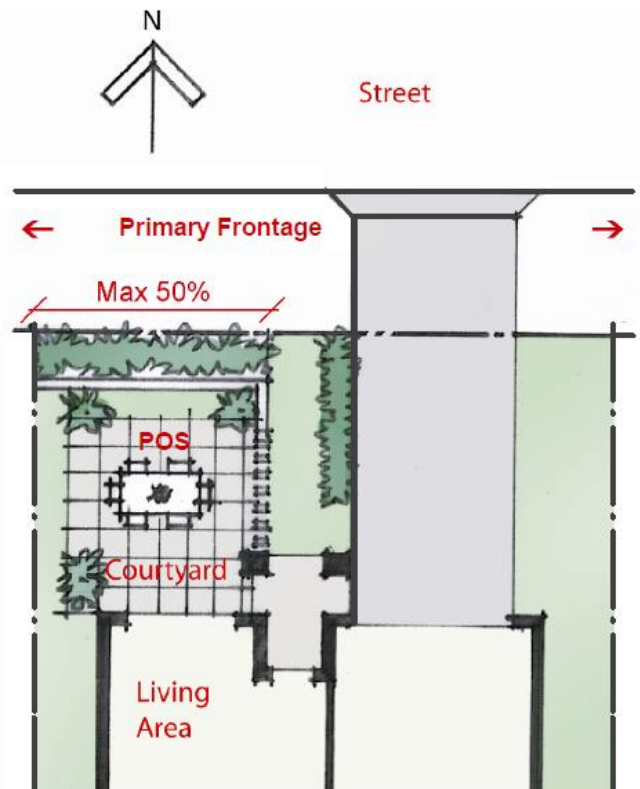


Figure 2.2.24.2 Limited fencing permitted when living spaces face north to street



- (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 +/- 0.3m 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.
- (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

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

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 500m<sup>2</sup> of bulky goods premises or *commercial premises*, or an area of more than 1,000m<sup>2</sup> 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

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

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

The following standards are also specified for that development:

- (a) if the change of use involves an area of more than 500m<sup>2</sup> of bulky goods premises or *commercial premises*, or an area of more than 1,000m<sup>2</sup> 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

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

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**

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

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 development, including single dwellings (Section 3.1) and multi-dwelling housing (Section 3.2). 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 Single and Multi-dwelling Housing)

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 *dwelling* 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.

**Traditional detached dwelling** in which no wall may be built-to-boundary.



**Zero-lot Dwelling** in which all or at least part of one side wall is built-to-boundary



**Terrace Dwelling** 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).



**SOHO dwelling** in which limited commercial uses are combined with residential uses on the land title.



**Granny Flat 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.



**Mews Dwellings** in which a group of more than three and up to five *dwelling*s are located on a single lot that 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.



**Plex Dwellings** in which up to six *attached* or *detached dwelling*s are located on one lot (duplex, triplex, etc.), but where there are no communal facilities provided. These *dwelling*s may be strata-titled/re-subdivided upon completion.



**Shop-top Dwelling/s** in which one or more *dwelling/s* is/are located on a single lot in association with a ground floor business use 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.



**Townhouse Dwellings** in which six or more *dwelling*s in an *attached* format (maximum number of *attached dwelling*s to be four) 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.



**Villa Dwellings** in which six or more *dwelling*s in a *detached* format 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.



**Apartments** in which two 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 Accommodation** (other than hotel or motel accommodation) in which 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.

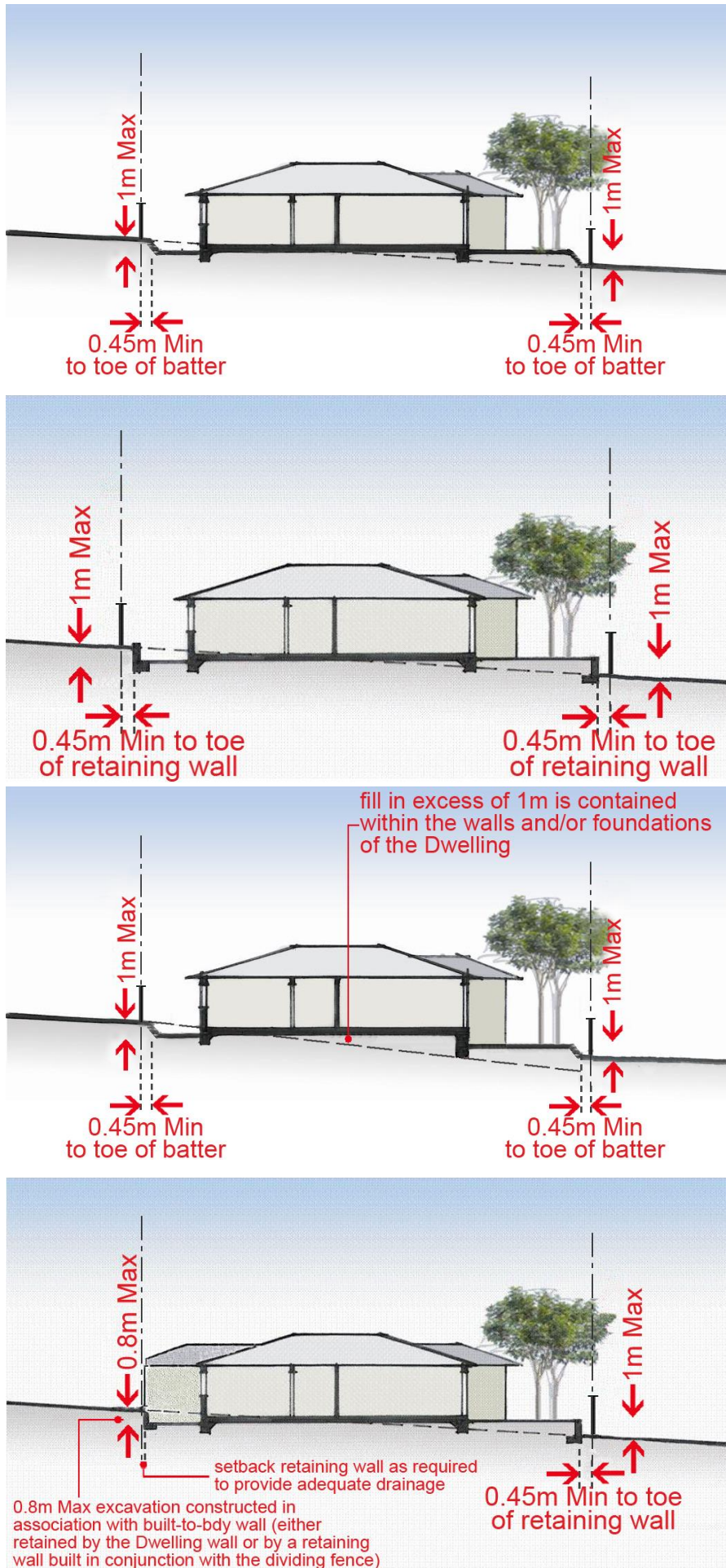


Figure 3.1.1.1 Retaining walls and unprotected embankments

### 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).

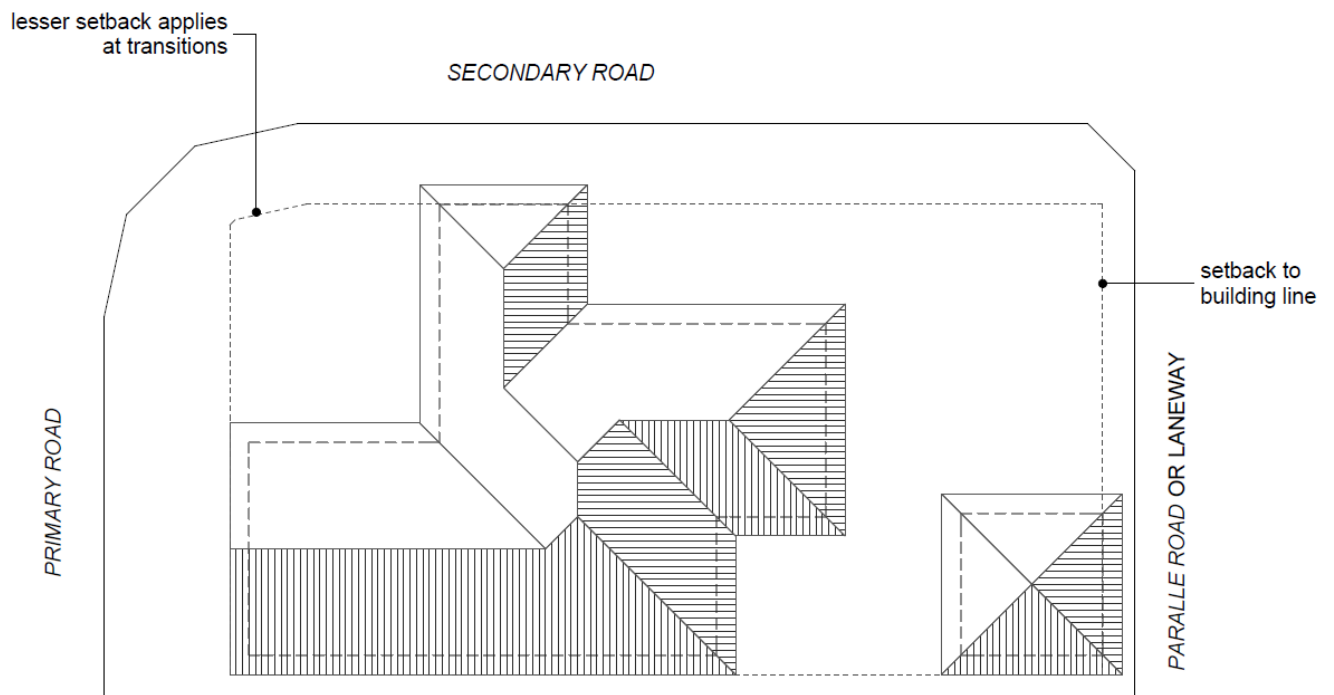


Figure 3.1.2.1 Frontage Setbacks for Corner Lots

### 3.1.3 Built Form

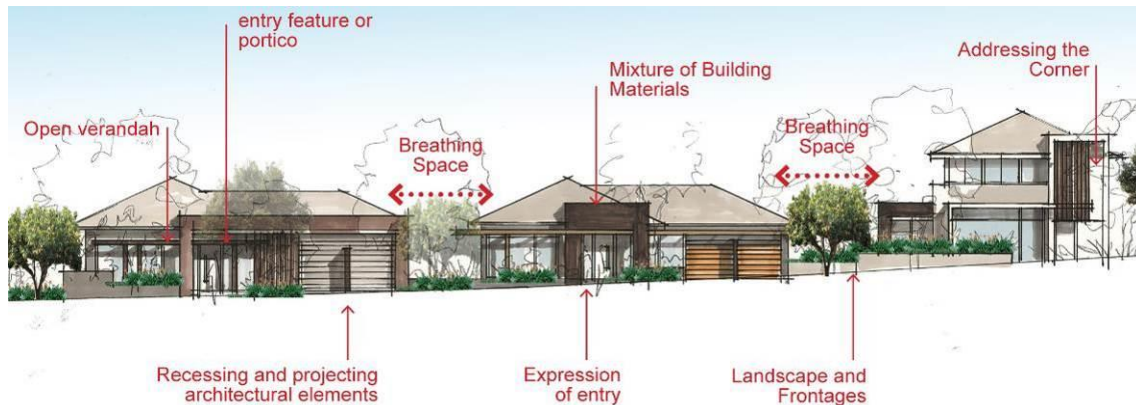
#### Objectives

- (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.

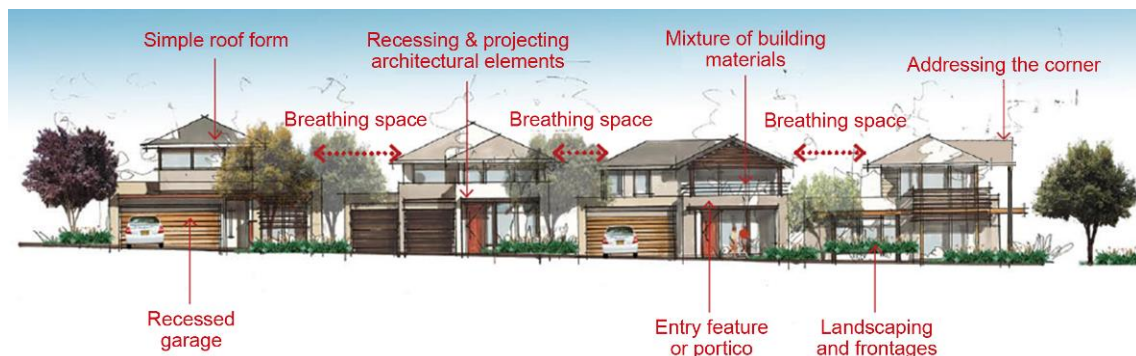
- (7) To promote colours and finishes sympathetic to natural and built environments.
- (8) To achieve a skyline sympathetic to the topography.

### 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**



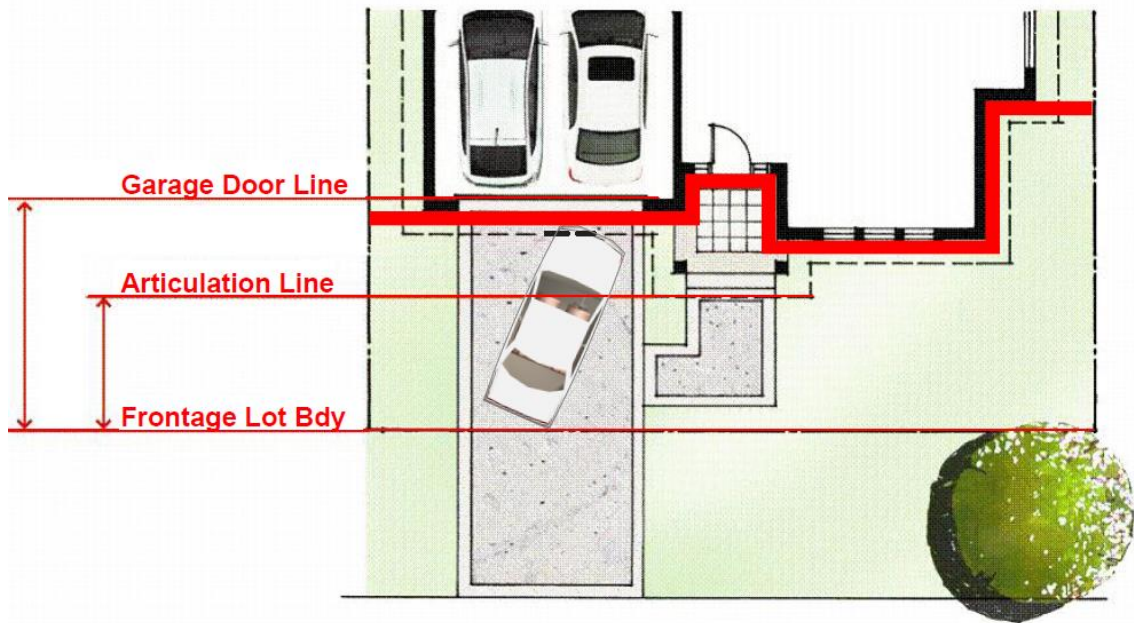
**Figure 3.1.3.2 Good Streetscape Design Principles (continued)**

- (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**).



**————— = Frontage Building Line**

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 6m<sup>2</sup> 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 development types are to generally be a maximum of two *storeys* in *height* except as stated in **3.1.4(2)** below.
- (2) A third *storey* is permissible on a lot designated for three *storey* construction on the approved *plan of development*.
- (3) A third *storey* may also be permitted (with a DRP Pre Approval Certificate) where it can be demonstrated that the development is:
  - (a) on a prominent street corner, or
  - (b) adjacent to a neighbourhood or local centre, public open space, golf course, or riparian corridor, or
  - (c) on land with a *ground level (existing)* slope equal to or more than 15%, in which case a partial third *storey*, being not more than 50% of the *gross floor area* of the level immediately above (or otherwise as varied by a *DRP pre-approval certificate*) is permitted, or
  - (d) not likely to impact adversely on the existing or future amenity of any adjoining land on which residential development is permitted, having regard to overshadowing, visual impact and any unreasonable impact on privacy, or
  - (e) a Plex, Mews, Townhouse, or *apartment*, Shop-top or *seniors housing* development where the three (3) *storey* component would not exceed 70% of the *building footprint*.
- (4) 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).
- (5) The *height* control in sub clause (3) may be increased by 1m in the case of a Shop-top, *apartment* or *seniors housing* development.
- (6) The *building height* of an *outbuilding* on a lot nominated for a *dwelling/s* shall not be more than 4m above *ground level (existing)*.
- (7) Wall lengths of a *height* of two *storeys* or more shall not exceed 30% of the length of the side boundary where the *setback* to that boundary is less than 2m, with the exception of Terrace Lot and *SOHO dwellings*, where wall lengths 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.

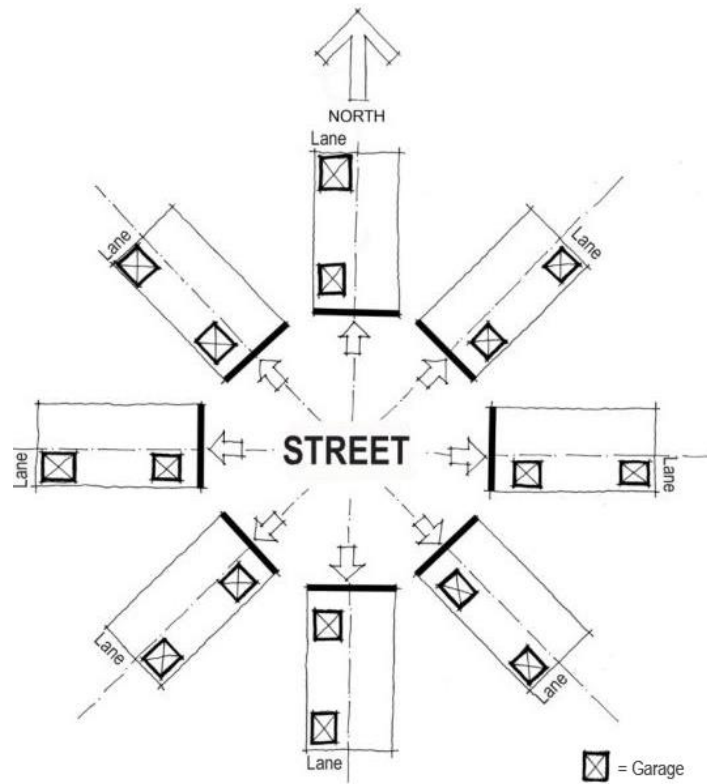
**Table 3.1.5.1 Car Parking Requirements**

Dwelling Type	Car Parking Required
Traditional Dwelling or Zero-Lot Dwelling	Minimum 2 spaces (1 covered)
Terrace Dwelling	Minimum 1 space (covered)
Plex Dwellings or Mews Dwellings	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>
Townhouse Dwellings or Villa Dwellings or <i>Apartments</i> or Shop Top Dwellings	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-site) at the rate of 0.25 spaces per <i>dwelling</i> for the first 20 <i>dwellings</i> and thereafter at the rate of 1 space per 10 <i>dwellings</i> .
Seniors Housing	As per SEPP (Housing for Seniors or People with a Disability) 2004
Tourist Accommodation	1 space per unit Plus 1 space per staff
SOHO	Residential Component - 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). Commercial Component – 1 space per 50m <sup>2</sup>
Granny Flat	No additional car parking required Note 1. <i>granny flat</i> development must not reduce the availability of car parking required by <i>principal 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	<7m -10m	>12m-<15m	>15m-<20m	>20
<b>Option 1 (additional tandem bays are also permitted)</b>						
		<b>Rear</b>	<b>Rear</b>	<b>Rear</b>	<b>Front</b>	<b>Front</b>
Width		Single	Single Double or	Single Double or	Double Triple or	Double Triple or
<b>Option 2 (additional tandem bays are also permitted)</b>						
		-	<b>Front</b>	<b>Front</b>	<b>Rear</b>	<b>Rear</b>
Width		-	Single	Single Double or	Single (if in addition to a front loaded double) or Double	Double

**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**

<b>Fence Control</b>	<b>Setback from the road frontage boundary</b>	<b>Min. and max. heights above Ground Level (existing)*</b>	<b>Type/s of fence permitted</b>	<b>Extent permitted to frontage boundary</b>	<b>Other requirements or notes</b>
<b>Fencing to a Primary Road frontage <u>not</u> providing privacy for a POS</b>	An minimum of 0.5m	0.6m minimum and 0.9m maximum	Solid Masonry, or a combination of Solid Masonry and Transparent or Translucent	A maximum of 50% of the total length of the frontage boundary (including any gates)	Landscape planting is required between the frontage boundary and the fence
<b>Fencing to a primary or Secondary Road frontage providing privacy for a POS</b>	A minimum of 0.5m	1.5m generally but up to 1.8m in limited portions to address topography considerations	A combination of 30% maximum Solid Masonry and Transparent , or Transparent or Translucent	A maximum of 50% of the total length of the frontage boundary (including any gates)	Landscape planting is required between the frontage boundary and the fence
<b>Fencing to a Secondary Road frontage of a corner lot <u>not</u> providing privacy for a POS</b>	A minimum of 0.5m	1.5m generally but up to 1.8m in limited portions to address topography considerations	Solid Masonry, or a combination of 30% maximum Solid Masonry and Transparent , or Transparent or Translucent	A maximum of 50% of the total length of the frontage boundary (including any gates)	Landscape planting is required between the frontage boundary and the fence

\*If fencing is solid masonry and incorporates the retaining of fill (maximum 0.6m), the height of the solid fence above Ground Level (existing) may be increased by 0.3m.

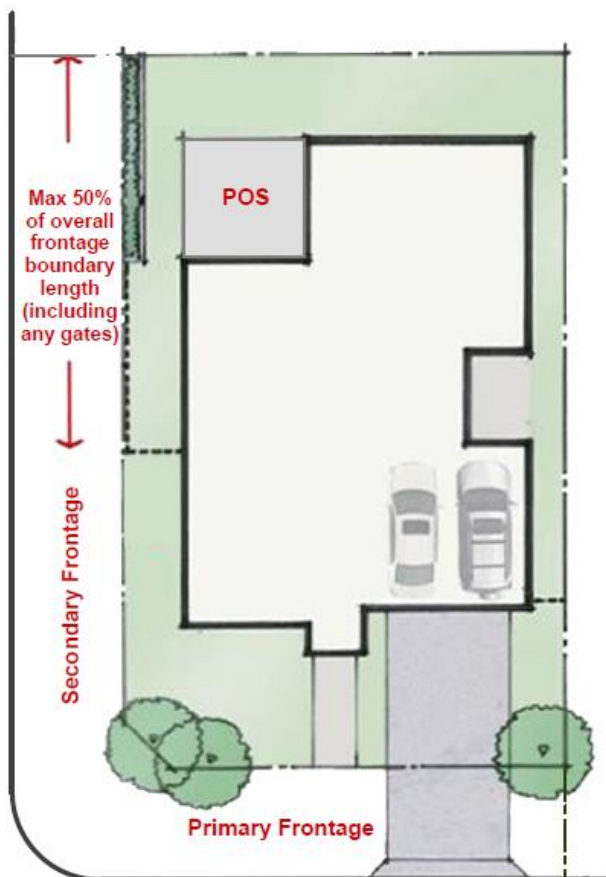


Figure 3.1.6.2 Solid fencing extending to part of a boundary

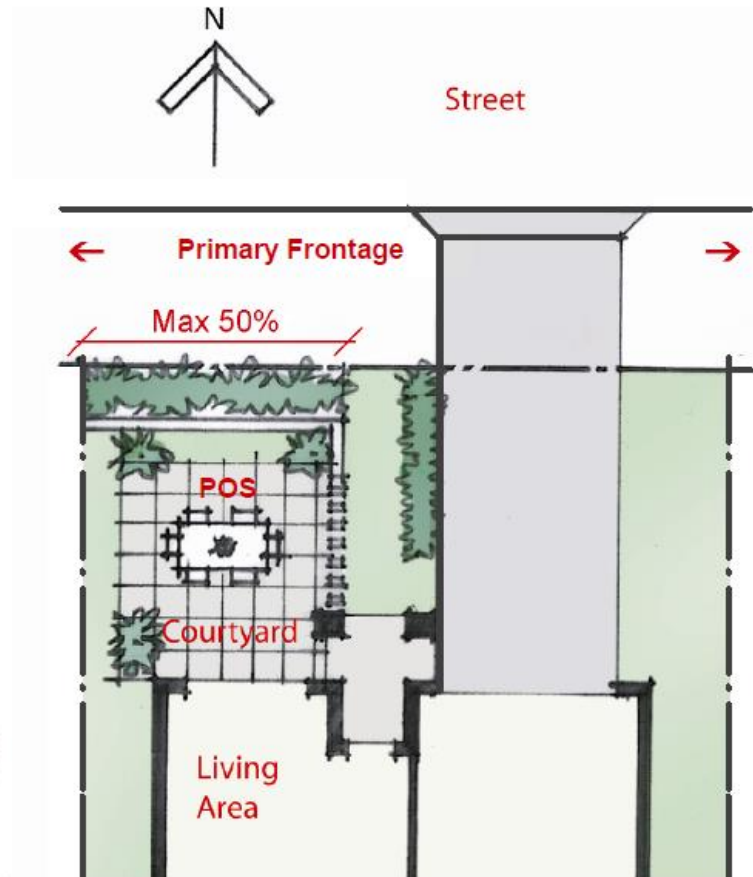


Figure 3.1.6.3: Limited fencing permitted when living spaces face north to street

- (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:
- (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 +/- 0.3m 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, 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:**
  - (b) 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.
  - (c) 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.

**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 Single 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 *single dwellings* (one *dwelling* on a single lot), namely, **Traditional detached dwellings, zero-lot dwellings, terrace dwellings, and SOHO dwellings** (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 Single Dwellings

#### 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**

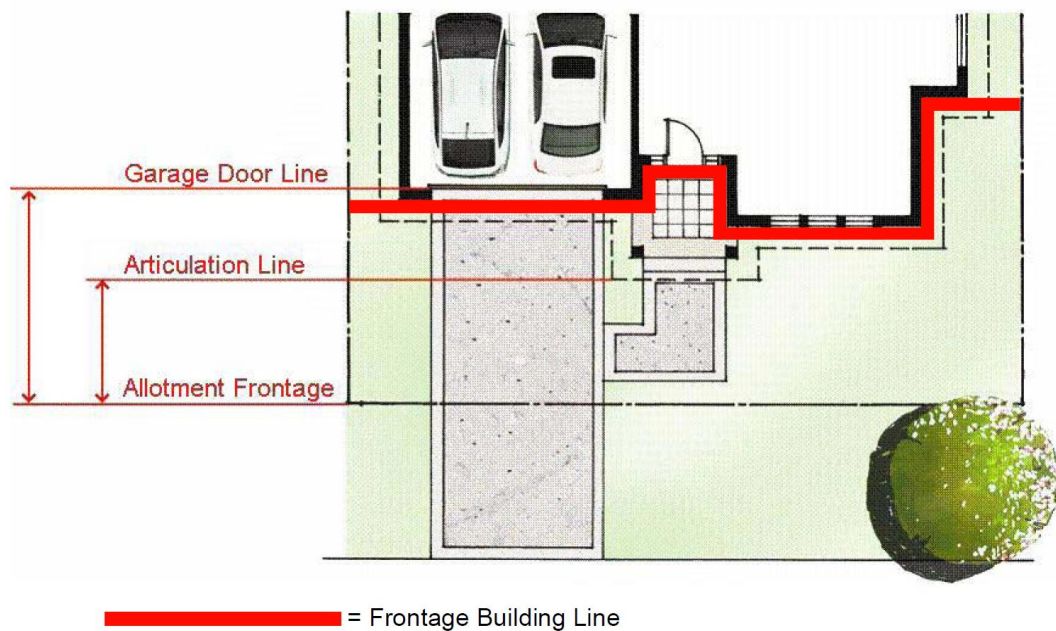
- (1) Front setbacks for single dwellings are to comply with **Table 3.2.1.1**.

**Table 3.2.1.1: Minimum Setbacks to Articulation Zones, Frontage Building Lines and Garage Door Lines for Single Dwellings**

Effective Lot Width	5m -10m	>10m – 15m	>15m	Measured to
Setback to Primary Road Frontage Articulation Zone	1m	2m	3m	<i>outermost projection</i>
Setback to Secondary Road Frontage Articulation Zone	0.5m	1.5m	2.5m	<i>outermost projection</i>
Setback to Primary Road frontage building line	2m	3m	5m	To wall
Setback to Secondary Road frontage building line	1.5m	2.5m	4.5m	To wall
Setback to garage door line measured to primary or secondary road frontage	4.5m for a double garage and 5.5m for a single garage	4.5m for a double garage and 5.5m for a single garage	6m	To the <i>garage door line</i>
Setback to garage door line measured to the rear laneway frontage	1m	1m	1m	To the <i>garage door line</i>
Setback to structure above ground floor garage measured from a Rear Lane	0.3m	0.3m	0.3m	<i>outermost projection</i>

\* Measured at the Frontage Building Line.

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



**Figure 3.2.2.1 Frontage Setback Terminology**



### 3.2.2 Side and Rear Setbacks for Traditional Detached Dwellings 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*.

**Note.** Downpipes, gutters and eaves shall not extend over the boundary.

**Table 3.2.2.1 Side and rear boundary Setbacks for Traditional Detached Dwellings and certain Ancillary development**

Type of Setback	Setback	Measured to
Ground Floor Setback to side boundaries	0.9 m	<i>outermost projection</i>
First Floor Setback to side boundaries (including any parts over 4.5m high)	1.5m	<i>outermost projection</i>
Second Floor Setback to side boundaries (including any parts over 8.5m high)	2m	<i>outermost projection</i>
Rear Boundary Setback (ground and first floors, excluding rear lanes)	3m	<i>outermost projection</i>
Rear Boundary Setback (second floors, excluding rear lanes)	4m	<i>outermost projection</i>
Rear <i>Articulation Zone</i> (ground and first floors, excluding rear lanes)	2m	<i>outermost projection</i>
Rear <i>Articulation Zone</i> (second floors, excluding rear lanes)	3m	<i>outermost projection</i>

\* Measured at the Frontage Building Line.

**Note1.** 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*.

### 3.2.3 Side and rear boundary Setbacks for Zero-lot, Soho or Terrace Dwellings, 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

- (1) 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 Zero-lot, Soho or *terrace dwelling* 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 Zero-lot, Soho or Terrace Dwellings, Outbuildings (detached) and certain Ancillary (attached) Development**

Effective Lot Width	5m -10m	>10m – 15m	>15m
Location criteria for built-to-boundary walls	Building to both boundaries permitted up to 2 storeys	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	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 18m or 50% of the applicable boundary length	The lesser of 18m or 50% 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 18m or 60% of the applicable boundary length	Not applicable	Not applicable
Ground Floor Setback (to the side boundary that <b>is</b> designated for Built-to-boundary construction, but excluding Built-to-boundary walls)	0.9m to <i>outermost projection</i>	1.5m to wall and 0.9m to <i>outermost projection</i>	Not applicable
Ground Floor Setback (to the side boundary that <b>is not</b> designated for Built-to-boundary construction)	0.9m to <i>outermost projection</i>	1.5m to <i>outermost projection</i>	1.5m to <i>outermost projection</i>

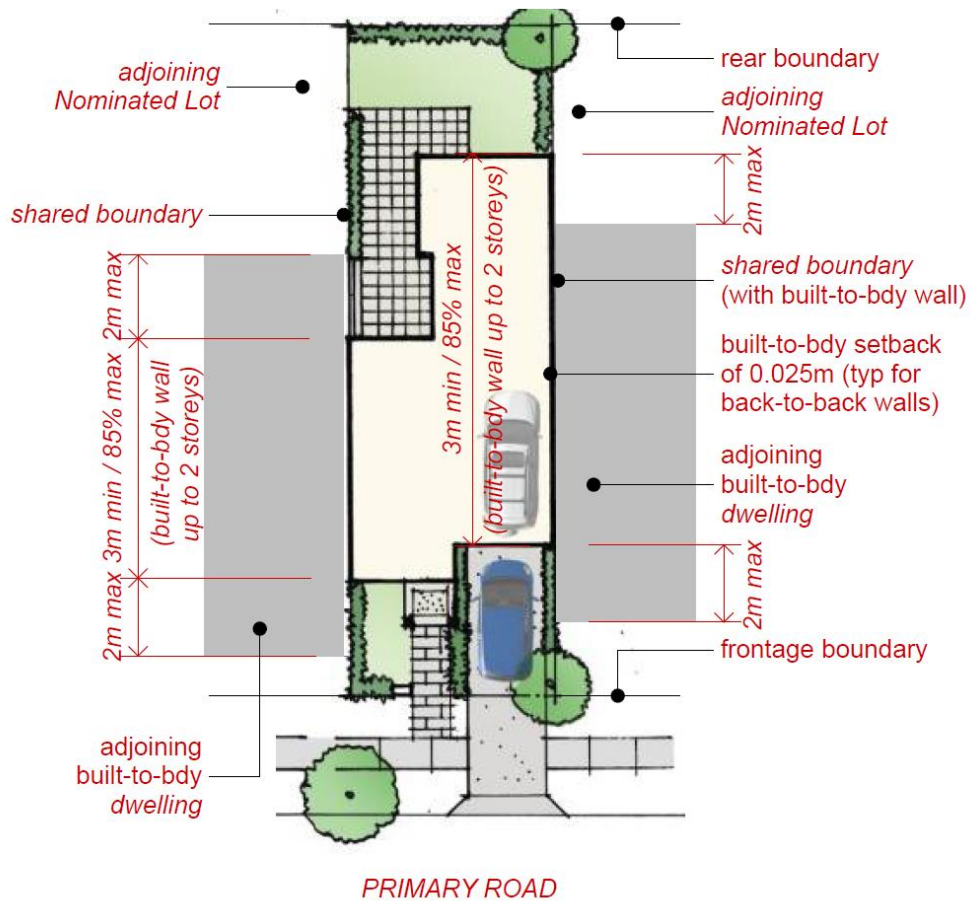
Effective Lot Width	5m -10m	>10m – 15m	>15m
First Floor Setback (to side boundaries, excluding Built-to- boundary walls but including parts over 4.5m high)	1.5m to wall and 0.9m to <i>outermost projection</i>	1.5m to <i>outermost projection</i>	1.5m to <i>outermost projection</i>
Second Floor Setback (to side boundaries, if permitted, including all parts over 8.5m high)	2m to wall	2m to wall	2m to <i>outermost projection</i>
Rear Boundary Setback  (ground and first floors, excluding rear lanes)	3m to <i>outermost projection</i>	3.5m to <i>outermost projection</i>	4m to <i>outermost projection</i>
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 0.60m to any lot boundary.

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



**Figure 3.2.3.1 Explanatory Diagram for Side and Rear Boundary Setbacks, Soho or Terrace Dwellings, (detached) Outbuildings and certain (attached) Ancillary Development**

- (2) The location of *zero-lot dwelling* 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.

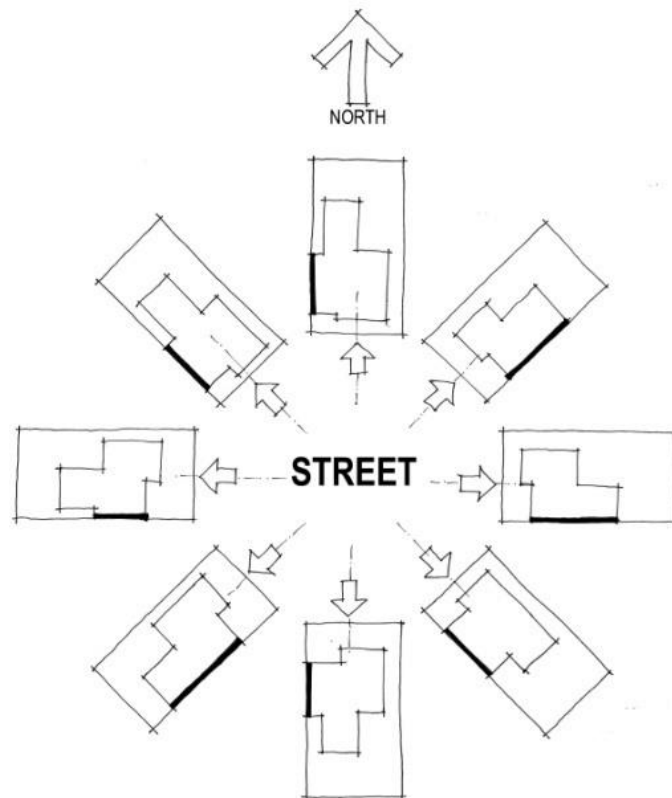


Figure 3.2.3.2 Preferred zero-lot wall locations

### 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

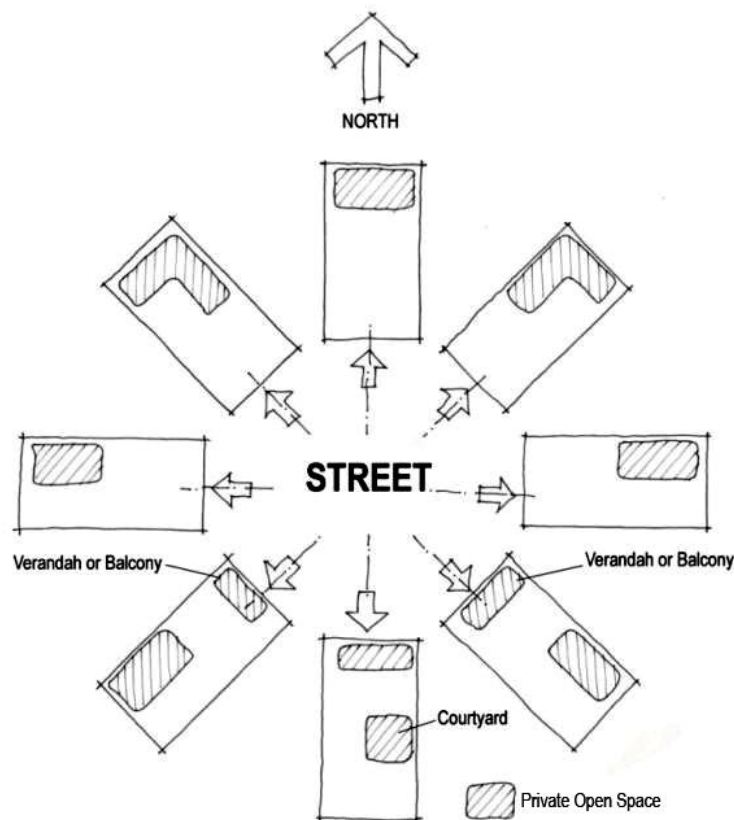
- (1) All *dwellings* require *private open space (POS)* consistent with **Table 3.2.4.1** and no steeper than 1:10 gradient. On steeper sites, POS must be terraced or provided on a deck to ensure it is functional recreation space.
- (2) POS is to be located having regard to *dwelling* design, allotment 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	5m -10m	>10m – 15m	>15m
Private Open Space (POS) at ground level	Min. 15m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	Min. 20m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	25m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy
Private Open Space (POS) at first floor level for a first floor living solutions	Min. 6m <sup>2</sup> if provided as a balcony or rooftop with a min. dimension of 2.1m	Min. 12m <sup>2</sup> 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 3.2.4.1 Private Open Space Location Principles**

### 3.2.5 Landscaped Area

#### Objectives

- (1) To enhance the landscape character of Kings Forest.
- (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	5m -10m	>10m – 15m	>15m
Minimum Landscaped Area For Single dwellings	5%**	10%**	30%**

**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*.

## 3.2.6 Special Controls for SOHO Dwellings

### 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 66m<sup>2</sup> or 25% of the area of the lot, whichever is the greater.
- (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.

### 3.3 Multi-Dwelling Housing Controls

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

***Granny flat; plex dwellings; mews dwellings ; shop-top dwellings; townhouse dwellings; villa dwellings ; apartments ; seniors housing; and tourist accommodation.***

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 *granny flats*, *plex dwellings* and *mews dwellings* as *complying development* on a *nominated lot* 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 Front Setbacks and Articulation Zones for Multi-dwelling Housing

##### 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

- (2) Front *setbacks* for *multi-dwelling housing* must comply with **Table 3.3.1.1**.

**Table 3.3.1.1: Minimum Setbacks to Articulation Zones, Frontage Building Lines and Garage Door Lines for Multi-dwelling Housing**

Development Category	Granny Flat	Plex and Mews	Town House, Villa, Apartment, Tourist Accommodation, Seniors Housing	Shop Top	Measured to
Primary Road Frontage Articulation Zone	As per the controls applying to the <i>principal dwelling</i> . (see <b>Section 3.2</b> )	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		3m	5m	2m	wall
Secondary Road frontage building line		2.5m	4.5m	2m	wall



Development Category	Granny Flat	Plex and Mews	Town House, Villa, Apartment, Tourist Accommodation, Seniors Housing	Shop Top	Measured to
Garage door line measured to primary or secondary road frontage		4.5m for a double garage and 5.5m for a single garage	6m	not applicable	garage door line
Garage door line measured to the rear laneway frontage		1m	1m	1m	garage door line
Rear Lane Setback to Structure above ground floor garage		0.3m	0.3m	0.3m	outermost projection

**Note 1.** See Figure 3.3.1.1 (below) for illustration of frontage setback terms.

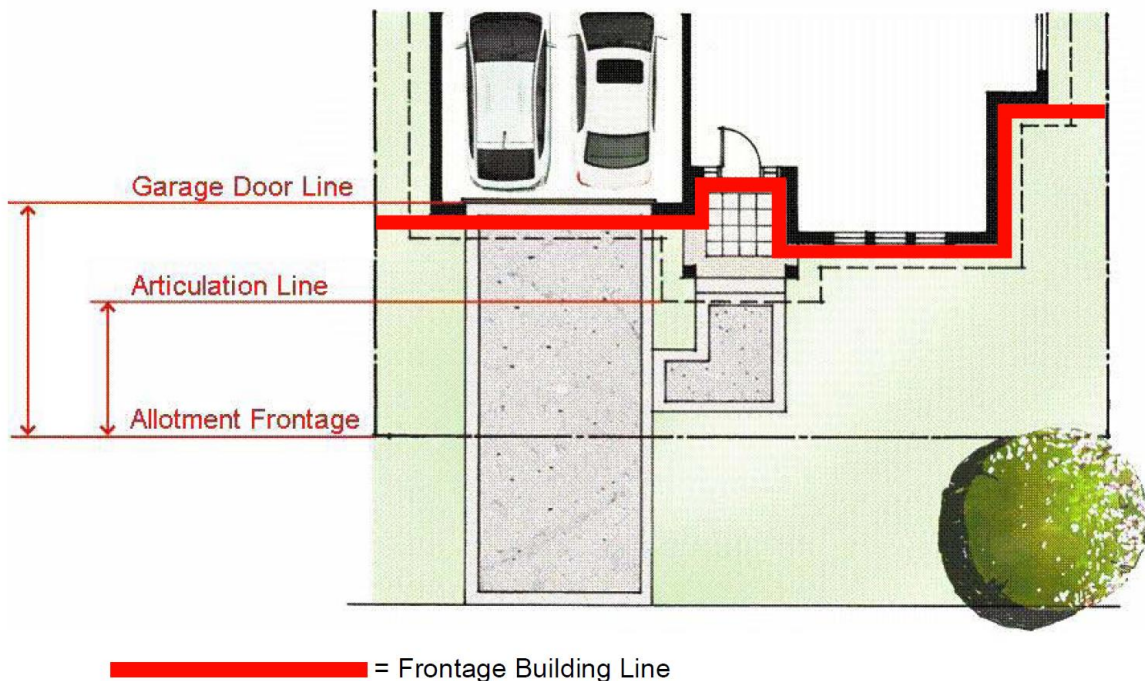


Figure 3.3.1.1 Frontage Setback Terminology

### 3.3.2 Side and Rear Setbacks for Multi-dwelling Housing

#### 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 3.3.2.1** or the *Building Code of Australia*, whichever is the greater.

**Table 3.3.2.1: Minimum Side and Rear Setbacks to parent lot boundaries**

Development Category	Granny Flat	Shop Top	Plex Mews Seniors Housing	Townhouse Apartment Tourist Accommodation
Ground Floor Setback to side boundaries -measured to wall unless noted otherwise	As per the controls applying to the <i>Primary dwelling</i> . (see <b>Section 3.2</b> )	Built-to-boundary, otherwise or 0.9m to OMP	0.9 m to OMP	1.5m 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		Built-to-boundary if adjoining a built-to-boundary wall on an adjacent lot of a configuration that is not greater than 2m offset in plan and 1.2m offset in elevation, otherwise 1.5m	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	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*	3m	4m

**Note 1.** On corner lots, the designer can choose which of the non-street front boundaries is to be the rear boundary (and nominate on DA plans), facilitating optimum solar access.

**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, hot water units and any other item of a similar character or nature, even if it has not been specifically listed, unless noted otherwise.

**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*.

## 3.3.3 Private Open Space

### Objectives

- (1) To provide usable *private open space* for outdoor recreation for all *dwelling*s.
- (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 *dwelling*s.

**Controls**

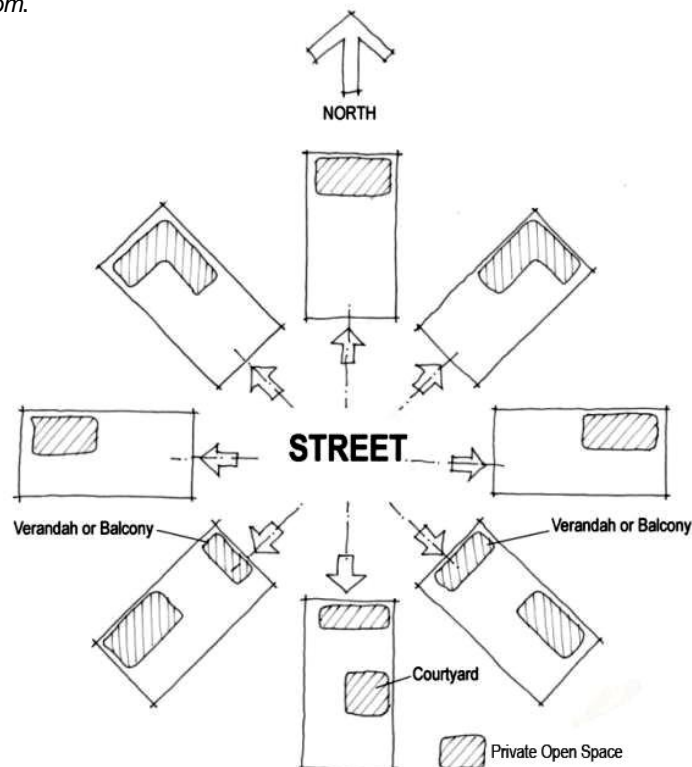
- (1) All dwellings require *private open space (POS)* consistent with **Table 3.3.3.1** and no steeper than 1:10 gradient. On steeper sites, POS must be terraced or provided on a deck to ensure it is functional recreation space.
- (2) POS is to be located having regard to *dwelling* design, allotment orientation, adjoining *dwellings*, landscape features, topography and preferred POS locations illustrated at **Figure 3.3.3.1**.
- (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 3.3.3.1: Private Open Space (POS)**

Effective Lot Width	Shop Top	Townhouse Villa Seniors Housing	Plex Mews Apartment Tourist Accommodation
Private Open Space (POS) at ground level	Min. 15m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	Min. 20m <sup>2</sup> with a min. dimension of 3m and provided with adequate privacy or	25m <sup>2</sup> 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 <sup>2</sup> if provided as a balcony or rooftop with a min. dimension of 2.1m	Min. 12m <sup>2</sup> 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 3.3.3.1 Private Open Space Location Principles**

### 3.3.4 Landscaped Area

#### Objectives

- (1) To enhance the landscape character of Kings Forest.
- (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

- (2) *Dwellings* must comply with the minimum *landscaped area* requirements) at **Table 3.3.4.1**.

**Table 3.3.4.1: Landscaped Area**

Dwelling Type	Shop Top	Plex Mews	Townhouse Villa Apartment Tourist Accommodation Seniors Housing
Minimum Landscape Area	5%	20% including any required for POS and including a minimum of 10% <i>deep planting area</i>	30%

**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*.

### 3.3.5 Granny Flats



Figure 3.3.5.1 Granny Flat (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 60m<sup>2</sup>, or 40% of the total *floor area* of the *granny flat* and the *principal dwelling*, whichever is the greater.
- (2) Subdivision of the development, including strata subdivision, is not permitted.
- (3) A *granny flat* 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 *granny flats* may be identifiable from the adjacent street or laneway.
- (5) A *granny flat* may only be developed on a lot nominated for a *traditional detached dwelling*, *zero-lot dwelling* or *terrace dwelling*.
- (6) In addition to any controls in **Section 3.3.5**, *granny flats* shall be are 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 *granny flat* must remain on the same lot as the *principal dwelling*.

### 3.3.6 Plex Dwellings



Figure 3.3.6.1 Example of Plex Dwellings

#### Objectives

- (1) To provide housing and lifestyle choices.
- (2) To provide higher residential densities compatible with the character of *traditional detached dwellings*.
- (3) To maximise residential amenity.
- (4) To facilitate frontages to different streets for dwellings within a plex dwelling development.
- (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) *Plex dwellings* are to be located on a lot designated on an approved *plan of development* as a lot for *plex dwellings*.
- (2) All *dwellings* shall be designed so that the pedestrian entry to the *dwelling* is clearly identifiable from the adjoining public street.
- (3) All *dwellings* shall provide at least one *habitable room* at ground level adjacent to an external living area. 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 3.3.6.1**. Where proposals do not achieve any stated control, the *design review panel* may endorse a variation of the control if the applicant provides reasonable justification in terms of achievement of the relevant control objective(s).

- (5) Covered car parking shall be screened from view from a road or other public land frontage, by the use of a garage door or similar shutter device.
- (6) Carports for *dwelling*s shall be accessed directly from the street (up to two *dwelling*s may share a crossover) and not via an internal driveway.

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

**Table 3.3.6.1: Reference summary of other controls relevant to Plex Housing**

Element	Control
<i>Building height</i> and Storeys	In accordance with Section 3.1.4
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

### 3.3.7 Mews Dwellings



**Figure 3.3.7 1** Mews dwellings (2 - 6 dwellings on one site with separate titles sharing a common driveway which might be created by either reciprocal easements or common property)

#### 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) *Mews dwellings* are to be located on a lot nominated on an approved *plan of development* as a *mews dwelling* lot.
- (2) All *dwellings* shall be designed so that the access way to the *dwelling* is clearly identifiable from the adjoining public street.
- (3) All *dwellings* 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 3.3.7.1**. 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.
- (5) *Garage* doors shall not be visible from the street and public spaces.
- (6) Where a *dwelling* does not have direct road access, provide a refuse collection point for this *dwelling* adjacent to the front boundary.

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

**Table 3.3.7.1: Reference Summary of Other Controls relevant to Mews Housing**

Element	Control
<i>Building height</i> and Storeys	In accordance with Section 3.1.4
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



### 3.3.8 Town Houses and Villa Dwellings



Figure 3.3.8.1 Town House Dwellings Plan



Figure 3.3.8.2 Town House Dwellings

#### Objectives

- (1) To encourage efficient use of residential land close to amenities.
- (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 opportunities for a high quality residential amenity with minimal private maintenance.
- (5) To ensure adequate levels of private and communal open space.
- (6) To provide *landscaped area* including a landscaped interface with street and public places.
- (7) To ensure climatically-responsible development.
- (8) To ensure articulated built form when viewed from street and public places.
- (9) To minimise impact on adjoining properties.
- (10) To facilitate refuse collection.

### Controls

- (1) Townhouse and *villa dwelling* Development may be undertaken on *development lots*.
- (2) All *dwellings* 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.
- (3) The maximum *site cover* is 40%.
- (4) The communal open space is 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 dwellings on the site.
  - (e) is separated from any private areas by a fence or landscaping.
- (5) The main pedestrian access from the street to the building is easily identified.
- (6) Where practical, ground floor units are to provide direct individual pedestrian access to the street.
- (7) 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.
- (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.

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

**Table 3.3.8.1: Reference summary of other controls relevant to Townhouses and Villa Dwellings**

Element	Control
<i>Building height and Storeys</i>	In accordance with Section 3.1.4
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 (min)</i>	In accordance with Section 3.3.4
Car parking spaces (min)	In accordance with Section 3.1.5

### 3.3.9 Apartments and Tourist Accommodation



**Figure 3.3.9.1 Apartments plan**



**Figure 3.3.9.2 Apartments 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.

**Table 3.3.9.1: Reference summary of other controls relevant to *apartments* and *tourist accommodation***

Element	Control
<i>Building height</i> and Storeys	In accordance with Section 3.1.4
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

### 3.3.10 Shop Top Dwellings



**Figure 3.3.10.1 Shop-top Dwelling/s**

#### 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 Dwellings are to be located on a lot nominated on an approved *plan of development* as a Shop Top Dwelling lot.
- (2) Comply with other relevant controls of the *Code* as referenced in **Table 3.3.10.1**. 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.

**Table 3.3.10.1: Reference summary of other controls relevant to Shop-top Dwellings**

Element	Control
Building height and Storeys	In accordance with Section 3.1.4
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

### 3.3.11 Seniors Housing



**Figure 3.3.11.1 Seniors housing plan**



**Figure 3.3.11.2 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 3.3.11.1**. 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

**Table 3.3.11.1: Controls for Retirement Communities**

Element	Control
<i>Building height and Storeys</i>	In accordance with Section 3.1.4
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 NEIGHBOURHOOD CENTRES AND EMPLOYMENT LAND

*This section outlines the objectives and design principles relating to the Kings Forest Town Centre, Neighbourhood Centres and Employment Land.*

## 4.1 Development Within the Kings Forest Town Centre

### Objectives

- (1) To create a vibrant town centre as the community and economic focal point of Kings Forest 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 4.2.1: Examples of good town centre development

## 4.2 Development Within Kings Forest 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 4.3.1: Examples of good Neighbourhood Centre Development

### 4.3 Development Within the Kings Forest Employment Land

#### Objectives

- (1) To provide land for *business premises, office premises, retail premises* and other employment generating uses which require larger land areas or which are not suitable in the Town Centre Precinct.
- (2) To provide high visual amenity to the entry to Kings Forest, well designed buildings and pleasant streetscapes.

#### Controls

- (1) Provide a range of *building heights* to a maximum of three *storeys*.
- (2) Provide high quality built form and landscaping particularly to primary street frontages and frontages visible from Kings Forest Parkway and Tweed Coast Road.
- (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) Provide a minimum 2m *building line setback* to the primary frontage.
- (6) Provide signage envelopes within the building design to co-ordinate the appearance of signage.
- (7) Site servicing and loading facilities, waste storage and other infrastructure is to be designed to minimise visual impact on the public domain and impacts on neighbours.
- (8) Parking access and loading is to be provided in accordance with *Tweed DCP 2008*, Section A2.
- (9) Avoid parking between within the *primary road frontage building line* unless screened from public view.

## 5.0 SUBDIVISION CONTROLS

This section contains objectives and development controls for the subdivision of land within Kings Forest, 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 neighbourhood and subdivision design 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**).

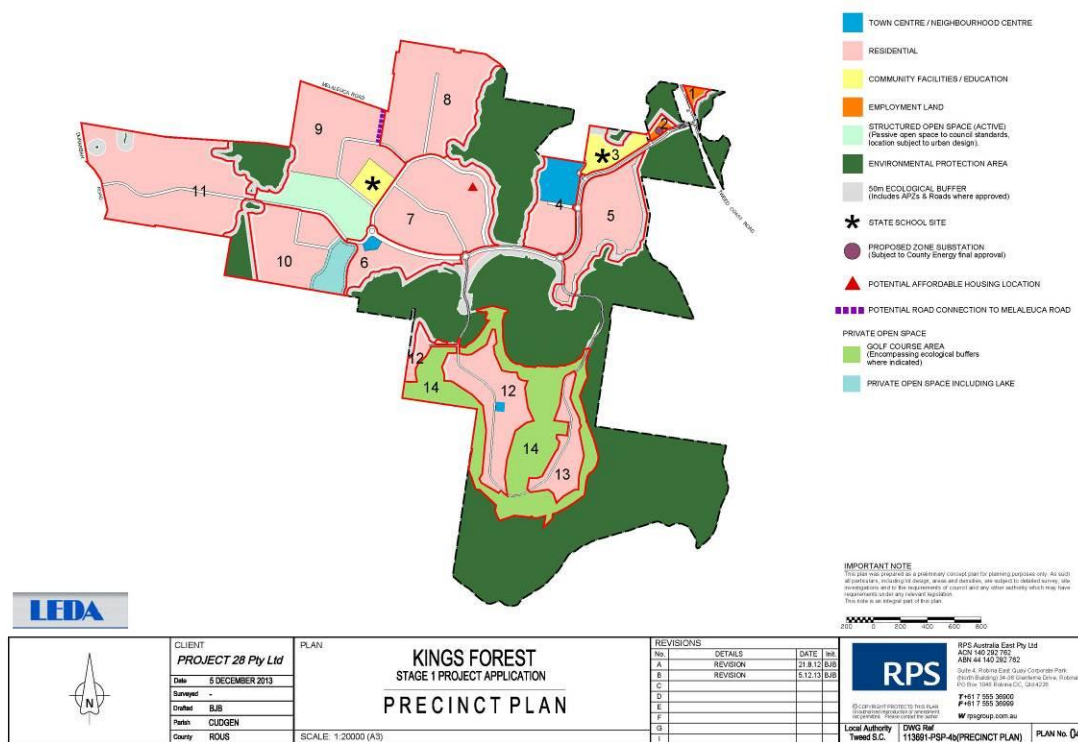


Figure 5.1.1: Kings Forest Precinct Areas

- (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.

## 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.

### 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, Neighbourhood Centre and Employment Land 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 furthest 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 5.2.1 and 5.2.2).
- (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 *terrace dwelling*s must have a *secondary road* frontage to a lane ~~or 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 (Kings Forest Parkway) is not permitted.



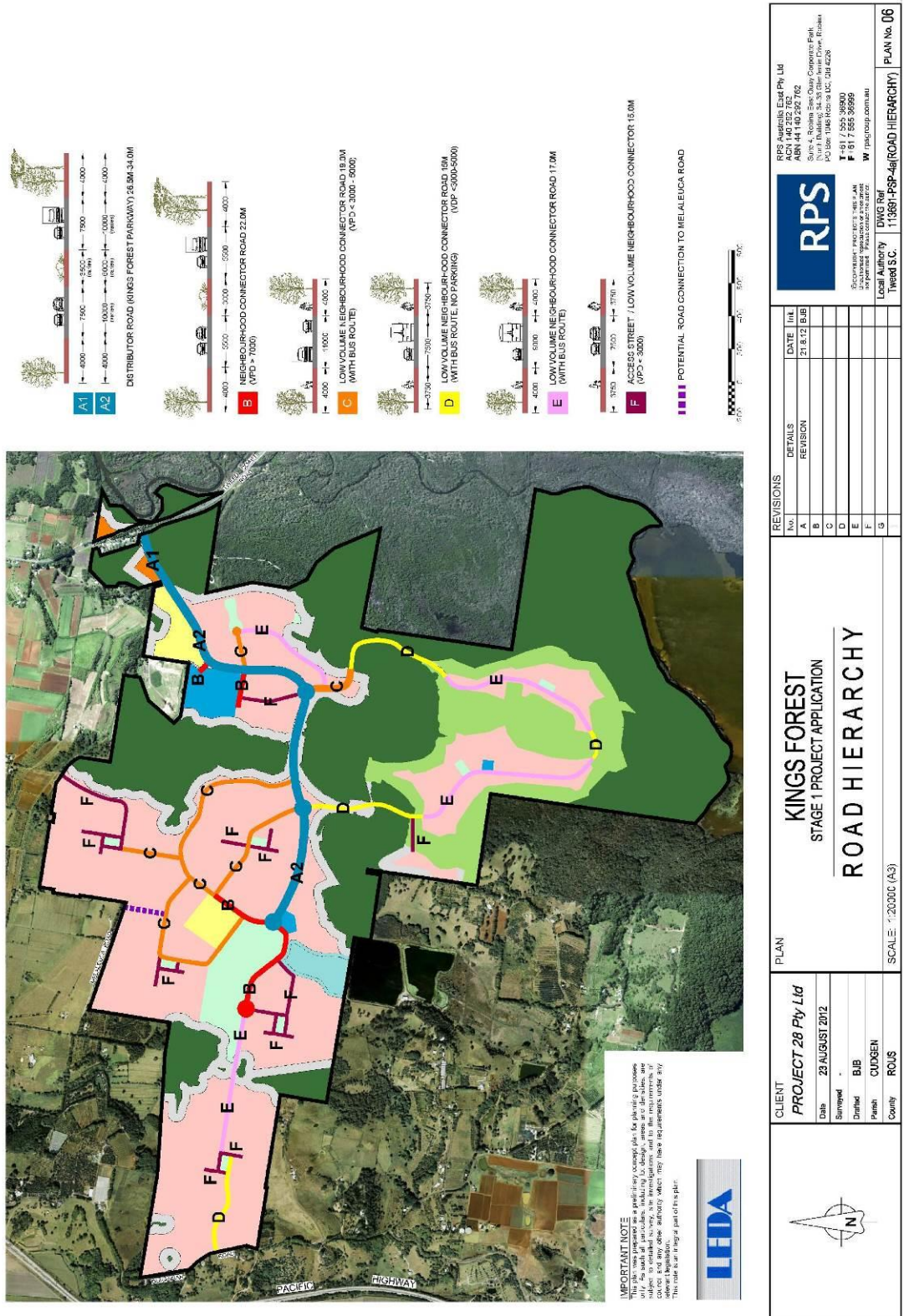


Figure 5.4.1: Street Network Plan and Sections

Figure 5.4.2: Street Network Sections

**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)
Traditional <i>detached dwelling</i>	400 m <sup>2</sup>	15m	18m	25m	Must be nominated as Traditional <i>detached dwelling</i> lots on <i>plan of development</i> .	1
Plex Dwellings	450m <sup>2</sup>	18m	20m wide (including truncation)	20m	Must be nominated as Plex Housing on <i>plan of development</i> . Must demonstrate that allowable building envelope represents a minimum 125 m <sup>2</sup> per <i>dwelling</i> . May be resubdivided in accordance with Part 5.10.	0.25
Zero-Lot Dwelling	240m <sup>2</sup>	8m with rear lane vehicular access; or 10m with front access	10m with rear lane vehicular access; or 12m with front access	24m	Must be nominated as Zero Lots on <i>plan of development</i> /DA for subdivision. Must demonstrate that allowable building envelope represents a minimum 125 m <sup>2</sup> per <i>dwelling</i> .	1
Terrace Dwelling	150m <sup>2</sup>	5m with rear lane vehicular access; or 7.5m with front access	8m with rear lane vehicular access; or 9m with front access	24m	Must be nominated as Terrace Lots in <i>plan of development</i> /DA for subdivision. Must demonstrate that allowable building envelope represents a minimum 125 m <sup>2</sup> per <i>dwelling</i> .	1
Mews Dwellings	500m <sup>2</sup>	18m	20m wide (including truncation)	20m (exclusive of truncation)	Must be nominated as Mews Housing lots on <i>plan of development</i> /DA for subdivision. May be resubdivided in accordance with Part 5.10 or Part 5.9 Clause 3.3.7.	0.25
Shop Top Dwellings	175m <sup>2</sup>	7m	9m	20m	Must be nominated as Shop Top Housing Lots in <i>plan of development</i> /DA for subdivision. Lots must have vehicular access from rear, be on a street containing commercial uses and be located close to or within a neighbourhood or town centre precinct.	Nil
SOHO Dwelling	250m <sup>2</sup>	10m	12.5m	20m	Generally associated with or close to neighbourhood or town centres. Lots must be provided with vehicular access from rear lane.	Nil
Neighbourhood Centre	900m <sup>2</sup>	30m		30m	May be resubdivided in accordance with Part 5.10.	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 <sup>2</sup>	25m		25m	Applicable to townhouses, <i>apartments</i> and retirement communities	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.

## 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* (*traditional detached dwellings, zero-lot dwellings, terrace dwellings, SOHO dwellings, plex dwellings, mews dwellings and shop top dwellings*) 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 300m<sup>2</sup> 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~~
  - b) a notation that development on the dwellings/buildings adjacent to Asset Protection Zones is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire prone areas; and**
  - c) type of development permissible or intended for each lot, for example, zero lot housing, plex housing; and

- d) ~~fill and~~ 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) all necessary easements and Section 88B instruments; and~~
- f) the type of development nominated on each lot which may be undertaken as Complying development and proposed number of bedrooms; and
- g) the location of development lots and the maximum number of dwellings and bedrooms intended in the future development of the development lot; and
- h) setbacks for all buildings and structures, including garages; and
- i) zero lot line locations if relevant; and
- j) for plex, mews and development lots, the maximum number of **dwellings per lot and bedrooms per dwelling**; and
- k) the location of preferred vehicular street access and driveway locations for Zero-lot, Terrace, Soho, Shop Top, Plex and Mews Dwelling lots; and
- l) the location of *private open space* for each lot; and
- m) the type of fencing to be provided to roads and other public land frontages; and
- n) the lots on which 3 storey building height is permissible other than those which may be determined on merit by DRP; and
- (o) the location of public open space; and
- (p) the location of specific landscaping to meet the design guidelines for each precinct; and
- (q) gateways or entry statements; and
- (r) a reference to the Design Guidelines which apply to the precinct.

## 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 4 members, including a chairperson; and
- (b) the Chairperson must be an 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.

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 be 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

(8) 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 ,

**(9) 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.

**(10) Dispute resolution:**

- (8) 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
- (9) In the event of a dispute between an applicant and the DRP about a 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.

**(11) Extinguishment of the DRP:**

- (a) the DRP or Adminstrator, 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 mechansim to the DRP or the establishment of a new DRP; and
- (e) where the DRP has been extinguished in accordance with (b) above, the Adminstrator or consultant must finalise all applications in abeyance at the time of extinguishment.

- (d) 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.

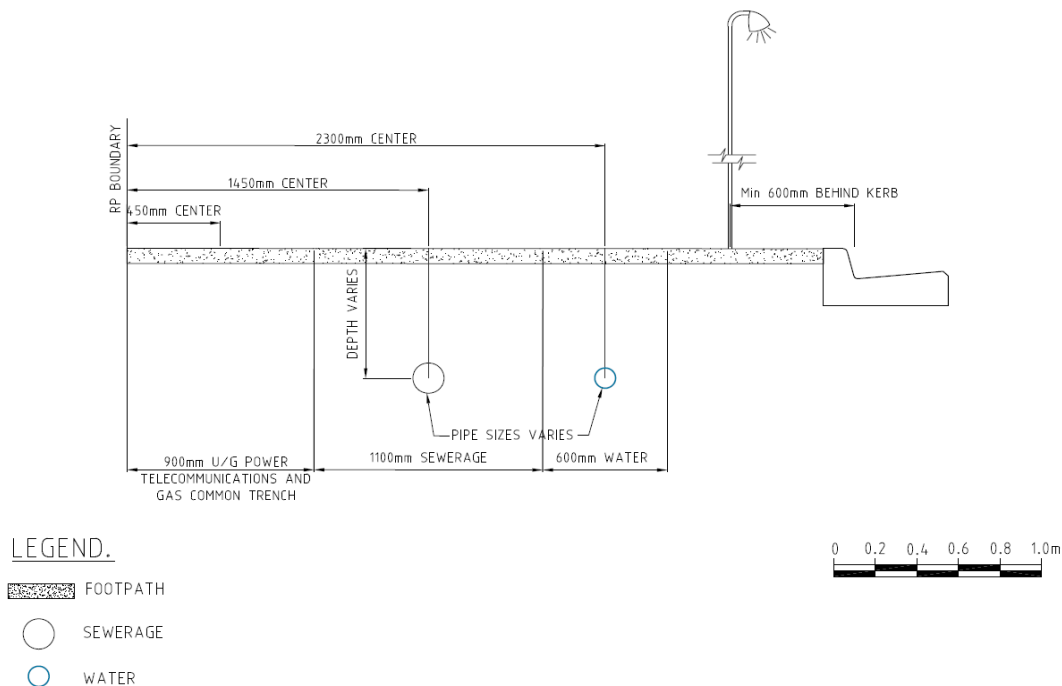
## 5.9 Location and Easements for Services

### 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**

## APPENDIX A: Glossary

In this Code:

“**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).

“**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.

“**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).

“**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.

“**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.

**"apartment"** means a development in which two or more *dwelling*s are located vertically in *storeys* and share car parking and common property. These *dwelling*s can be strata-titled upon completion, as outlined in Part 5.10.

**"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*.

**"artisan food and drink industry"** means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

**Note—**

Artisan food and drink industry development shall comply with the following standards:

**Artisan food and drink industry exclusion** If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—

- (a) 40% of the gross floor area of the industry, or
  - (b) 400 square metres,
- whichever is the lesser.

Artisan food and drink industries are a type of *light industry*—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.

**"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.

**"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—**

Bed and breakfast accommodation development shall comply with the following standards:

The accommodation that is provided to guests must consist of no more than 6 bedrooms.

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

**"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.

**"building height"** (or **height of building**) means—

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to 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.

**"built-to-boundary"** means the situation where a wall is constructed between 0.025m to 0.25m from a shared boundary.

**"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 may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

**"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.

**"carpark"** 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.

**"chairperson"** means the Chairperson of the Design Review Panel.

**"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:~~

- ~~(i) a building or place used for home-based child care, or~~
- ~~(ii) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or~~
- ~~(iii) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or~~
- ~~(iv) 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~~
- ~~(v) 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~~
- ~~(vi) a service that is concerned primarily with the provision of~~
- ~~(vii) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or~~
- ~~private tutoring, or~~
- ~~a school, or~~
- ~~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.~~

**"centre-based child care facility"** means—

- (a) a building or place used for the education and care of children that provides any one or more of the following—
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*).

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

**"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*.

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

**"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.)

“**Code**” means the Kings Forest Development Code.

~~“**commercial premises**” means a business premises, office premises or retail premises.~~

“**commercial premises**” means any of the following—

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

“**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*.

~~“**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~~
- ~~(c) ——— does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.~~

“**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.

“**concept plan**” means the *concept plan* approval for Kings Forest, as described by **Sections 1.1 and 1.2** of this *Code*.

“**corridor**” means the vegetated (and area to be revegetated) that links the Cudgen Lake Reserve and the wetland and sclerophyll forested habitats through the Kings Forest site.

“**Council**” means Tweed Shire Council.

“**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 Plex or a Mews 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*.

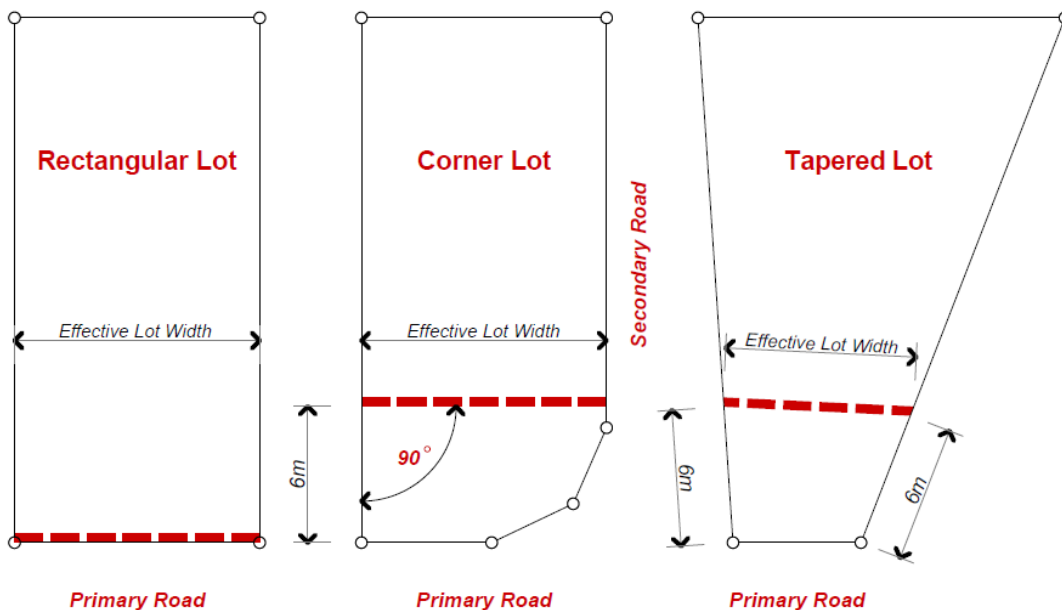
“**dwelling**” means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile and includes any part of the building containing the *dwelling* that is *ancillary development* under this *Code* but does not include *exempt development* under this *Code*.

“**dwelling type**” means a *traditional detached dwelling, zero-lot dwelling, terrace dwelling, SOHO dwelling, plex dwellings, mews dwelling or shop-top dwelling, townhouse dwellings, villa dwellings, apartments, retirement communities, or tourist accommodation* as defined in 3.1 of this *code*.

“**dwelling house**” means a building containing only one *dwelling*, and includes any part of the building that is *ancillary development* under this *Code* but does not include *exempt development* under this *Code*.

“**effective lot width**” means,

- 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
- 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
- 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).



“**electricity transmission or distribution network**” includes the following components—

- above or below ground electricity transmission or distribution lines (including related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, access structures, access tracks and ventilation structures) and telecommunication facilities that are related to the functioning of the network;
- above or below ground electricity switching stations or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings;
- systems for electricity storage associated with a component specified in paragraphs (a) and (b).

“**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.

“**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.

“**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.

“**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.

"**first floor living solutions**" means a *dwelling* design with the principal kitchen and at least one principal living area having direct, level access to and surveillance of a *private open space* that is located on a semi private balcony that is accessed from the first floor of the *dwelling*

"**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*).

~~"**food and drink premises**" means *retail premises* used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes *restaurants, cafes, take away food and drink premises, milk bars and pubs.*~~

"**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*.

"**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.

**"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.

"**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**.

**"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 include a restaurant or cafe and the sale of any of 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.

**"granny flat"** 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*.

~~**"gross floor area"** means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, excluding:~~

- ~~(a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall,~~
- ~~(b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts,~~
- ~~(c) car parking needed to meet any requirements of the Council and any internal access thereto,~~
- ~~(d) space for the loading and unloading of goods.~~

**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 lot at any point upon sealing by Council of the subdivision plan.~~

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

**"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.

**"ground level (finished)"** means, for any point on a **lot 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*.

**"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.

**"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.

**"home business"** means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because 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 adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**Note—**

See clause 5.4 of TLEP2014 for controls relating to the floor area used for a home business.

**"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.

**"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.

**"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.

**"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.

**"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.

**"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,

(c) artisan food and drink industry.

**Note—**

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

**"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.

**"medical centre"** means **business premises** 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, and may include the ancillary provision of other health services.

**"mews dwelling"** means a *dwelling* within a development in which a group of more than three and up to six *dwellings* are located on a single lot that share a common driveway and often have frontages to two streets or a street and a park, but otherwise have no common facilities. These *dwellings* may be strata-titled/re-subdivided (Torrens title) upon completion, often providing freehold title lots with reciprocal easements for access to the lots not located on the access street frontage.

**"multi-dwelling housing"** means development involving more than one *dwelling* on a lot.

**"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.

**"nominated lot"** means a lot which complies with the controls specified in Table 5.4.1: Minimum Area and Dimension Controls for New Lots of this code for a specified *dwelling type* or other development, i.e., *traditional detached dwelling, zero-lot dwelling, terrace dwelling, SOHO dwelling, plex dwellings, mews dwelling, shop-top dwelling* or *development lot* and has been nominated accordingly on the *plan of development*.

**"nominated lot"** means a lot which meets or exceeds specified, pre-determined minimum controls for a *traditional detached dwelling, zero-lot dwelling, terrace dwelling, SOHO dwelling, plex dwellings, mews dwelling* or *shop-top dwelling*.

**"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.

**"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.

**“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 furthest distance from a building wall, for instance an eave, but does not include a gutter.

**“parallel road”** means, in the case of a lot that has boundaries with *parallel roads*, the road that is not the *primary road*”

**“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.

**“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.

**“plex dwelling”** means a *dwelling* within a development in which up to six *attached* or *detached dwellings* are located on one lot (duplex, triplex, etc.), but where there are no communal facilities provided. These *dwellings* may be strata-titled/re-subdivided upon completion, as outlined in Part 5.10 Strata Subdivision.

**“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*.~~

**“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.



**“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.

~~“pub” means licensed premises under the *Liquor Act 2007* the principal purpose of which is the 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 on the premises.~~

“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 utility undertaking” means any undertaking carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act.~~

**Public utility infrastructure”** means ?? – where is definition

“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.

**“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.

**“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 development 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 development buildings*), but does not include an entertainment facility or a *recreation facility (major)*.

**"registered club"** means a club that holds a club licence under the *Liquor Act 2007*.

**"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 **people aged 55 years or more**—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 being a *dwelling*, *hostel*, hospital or psychiatric facility.

~~**"restaurant"** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.~~

**"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.

~~**"retail premises"** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).~~

**"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) (Repealed)
- (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,
- (la) specialised retail premises,
- (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.

**"school"** means a government *school* or non-government *school* within the meaning of the *Education Act 1990* (NSW).

**"secondary road"** means, in the case of a corner lot that has boundaries with adjacent roads, the road that is not the *primary road*.

**"seniors housing"** means residential accommodation that consists of:

- (a) a residential care facility, or
  - (b) a hostel, or
  - (c) a group of self-contained dwellings, or
  - (d) a combination of these,
- 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 residential accommodation or in the provision of services to persons living in the accommodation,
- but does not include a hospital.

**"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.

"**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.

~~"shop" means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.~~

"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 and neighbourhood supermarket, 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 dwelling/s" means a development in which one or more dwelling/s is/are located on a lot in association with a ground floor business use 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 dwellings may also be strata-titled/re-subdivided upon completion.~~

"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.

"**single dwelling**" means a *traditional detached dwelling, zero-lot dwelling, terrace dwelling or SOHO dwelling*.

~~"site cover" means the percentage of the building footprint, including an outdoor room and garage, in relation to the area of a lot.~~

**"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.

**"SOHO dwelling"** means a *dwelling* in which limited commercial uses are combined with residential uses on the title.

**"standard instrument"** means the standard local environmental planning instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006.

**"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 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.*

**"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.

**"telecommunications facility"** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

**"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.

**"terrace dwelling"** means a dwelling where 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 wall).

**"the Act"** means the *Environmental Planning and Assessment Act 1979* (NSW).

**"tourist accommodation"** means a development (other than hotel or motel accommodation) in which self-contained, short-term accommodation units are located on a single lot with communal facilities and a building manager. These dwellings may be strata-titled.

**"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.

**"townhouse dwelling"** means a *dwelling* within a development in which six or more *attached dwellings* (that are not *Plex* or *Mews* 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*.

**"traditional detached dwelling"** means a *dwelling house* constructed on a *nominated lot* designated for a *traditional detached dwelling* and where no *built-to-boundary* walls are permitted.

**"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.

**"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.

**"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.

**"villa dwelling"** means a *dwelling* within a development in which six or more *detached dwellings* (that are not *Plex* or *Mews* 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 *villa dwelling* development on the approved *plan of development*.

**"water recreation structure"** means a structure used primarily for recreational purposes that has a with direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

**"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

On 18 August 2010, the NSW Minister for Planning approved the Kings Forest Concept Plan. The approved Concept Plan comprises the following key features.

- Twenty three (23) residential precincts with a mix of housing types including detached houses, terraces and attached dwellings on corner allotments, comprising 4,500 dwellings covering approximately 270 hectares of net developable land;
- A mixed use Town Centre and Neighbourhood Centre with building heights of 2-3 storeys with a combined land area of 14.4 hectares;
- Community and education facilities including 2 public primary schools and a community facility over 14.5 hectares of land;
- A business park covering 7 hectares of land;
- A golf course covering 57 hectares of land that also acts as a buffer between the environmental protection areas and the residential development;
- Active and passive open space areas;
- Environmental protection areas covering 338.5 hectares of land;
- Access network of roads, public transport routes and pedestrian/cycle paths;
- Landscaping and vegetation management;
- Water management areas and lakes; 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	$160\text{m}^2$ minimum	5000L
Zero-lot Dwelling $250\text{m}^2$ lots (min)	Min 85% of roof up to $160\text{m}^2$	3000L
Terrace Dwelling $175\text{m}^2$ lots (min)	Min 85% of roof up to $160\text{m}^2$	2000L (3000L if space permits)
Plex (each dwelling) 2 – 5 on $450\text{m}^2$ lot (min)	Min 85% of roof up to $160\text{m}^2$	2000L Site Min 5000L Can be common
Mews (each dwelling) 3 – 6 on $500\text{m}^2$ lot (min) (lot can be Torrens Title subdivided further)	Min 85% of roof up to $160\text{m}^2$	2000L No common tank without a body corporate or single owner.
SOHO Dwelling $250\text{m}^2$ lots (min)	Min 85% of roof up to $160\text{m}^2$	3000L
Multiple Unit Developments, Commercial, Industrial	80 – 90% of roof area	Common tank sized proportionate to building size.