

Part 2 Rural zone provisions

12 General controls for development—Zone 1 (a) (Rural General Zone)

(1) Land within the zone

Land is within Zone 1 (a) (the Rural General Zone) if it is shown lettered 1 (a) on the zoning map.

(2) Objectives of the zone

The objectives of Zone 1 (a) are as follows:

- (a) to encourage continued growth in the area's rural economic base,
- (b) to encourage other forms of development, including tourism, that are compatible with agricultural activities and do not create undesirable environmental and cultural impacts,
- (c) to protect and conserve the productive potential of prime crop and pasture land,
- (d) to maintain the scenic amenity and landscape quality of the area,
- (e) to promote the protection, and the preservation and enhancement, of natural ecological systems and processes,
- (f) to provide proper and coordinated use and protection of rivers, riparian corridors and water catchment areas,
- (g) to promote the economic provision of services compatible with the nature and intensity of development and the character of the area,
- (h) to ensure that development and management of the land has minimal impact on water quality and environmental flows of receiving waters,
- (i) to maintain significant features of natural and cultural heritage.

(3) Allowed without development consent

Development for the purpose of:

agriculture; environmental facilities; farm forestry.

(4) Allowed only with development consent

Any development not included in subclause (3) or (5).

(5) Prohibited

Development for the purpose of:

advertisements not displaying how the land is lawfully used or directional information; boarding houses; brothels; bulk stores; bulky goods retail outlets; caretakers' residences; commercial premises; detached dual occupancies; exhibition homes; granny flats; heavy industries; hostels; hotels; medical centres; motels; motor showrooms; multi unit housing; public buildings; recreation facilities; refreshment rooms; serviced apartments; sex shops; shops; warehouses.

13 General controls for development—Zone 1 (c) (Rural Small Holdings Zone)

(1) Land within the zone

Land is within Zone 1 (c) (the Rural Small Holdings Zone) if it is shown and lettered 1 (c) on the zoning map.

(2) Objectives of the zone

The objectives of Zone 1 (c) are as follows:

- (a) to facilitate and provide rural residential development in appropriate locations, taking into account natural constraints and agricultural land,
- (b) to maintain and enhance the character, amenity and landscape quality of rural residential areas,
- (c) to control the intensity of rural residential development having regard to the physical limitations of the land and the costs and limitations of the provision of public amenities and services,

- (d) to provide opportunities for an agricultural use of the land that is compatible with surrounding residential development.

(3) Allowed without development consent

Development for the purpose of:

agriculture; environmental facilities.

(4) Allowed only with development consent

Development for the purpose of:

animal establishments; aquaculture; attached dual occupancies; bed and breakfast establishments; child care centres; clearing of land; community facilities; craft studios; detached dual occupancies; dwelling houses; educational establishments; farm forestry; granny flats; home businesses; home industries; intensive horticulture; places of public worship; professional consulting rooms; reception establishments; recreation areas; recreation establishments; retail plant nurseries; riding schools; tourist accommodation; utility installations; veterinary establishments.

(5) Prohibited

Any development not included in subclause (3) or (4).

14 General controls for development—Zone 1 (f) (Rural Forestry Zone)

(1) Land within the zone

Land is within Zone 1 (f) (the Rural Forestry Zone) if it is shown lettered 1 (f) on the zoning map.

(2) Objectives of the zone

The objectives of Zone 1 (f) are as follows:

- (a) to enable the continuance and expansion of forestry and development for associated purposes,
- (b) to promote, encourage and facilitate the implementation of the principles of ecologically sustainable development as they relate to the activities undertaken within the zone,
- (c) to maintain the scenic amenity and landscape quality of the area.

(3) Allowed without development consent

Development for the purpose of:

agriculture; environmental facilities; picnic grounds; roads; any land use authorised by or under the Forestry Act 1916; utility installations.

(4) Allowed only with development consent

Development for the purpose of:

camp sites; extractive industries; mines; outdoor recreation.

(5) Prohibited

Any development not included in subclause (3) or (4).

15 Controls for subdivision for the purposes of agriculture within Zone 1 (a)

- (1) This clause applies to land within Zone 1 (a).
- (2) Consent may be granted to the creation of an allotment of any area for the purpose of agriculture.
- (3) However, consent must not be granted to the creation of an allotment for the purpose of agriculture if the allotment will have an area of less than 120 hectares and there will be a dwelling house on the allotment.

Any proposals to subdivide land for agricultural purposes should be justified by the applicant to demonstrate the potential productive use of each lot for commercial agricultural use.

16 Limited subdivisions for the purpose of dwellings within Zone 1(a)*

17 Controls for building dwelling houses within Zone 1 (a)

* Amendment: Rural Lands SEPP clause deleted

- (1) Despite any other provision of this plan except this clause, consent must not be granted to the erection of a dwelling house on an allotment in Zone 1 (a) unless the land:
 - (a) comprises an allotment of not less than 120 hectares, or
 - (b) comprises an allotment created for the purpose of a dwelling house by a subdivision for which consent has been granted,
 - (c) comprises an allotment identified as the residue in a subdivision for which consent has been granted for the excision of allotments for the purpose of a dwelling house, or
 - (d) comprises an existing holding on which there is no other dwelling house and the consent authority is satisfied that:
 - (i) the land is of sufficient size and the soils are of appropriate quality for the effective on-site disposal of domestic waste, and
 - (ii) the erection of a dwelling house will not create or increase any demand for the uneconomic provision or upgrading of roads and other utilities to that land.

- (2) Notwithstanding any other provision of this clause, consent may be granted to the erection of a dwelling house on an allotment (including a portion of a Parish or a lot in a Crown plan) within Zone 1 (a) that was lawfully created prior to 7 January 1966 and that is not an existing holding if the consent authority is satisfied that:
 - (a) the erection of the dwelling house will not create any substantial conflict with the objectives of the zone, and
 - (b) the erection of a dwelling house will not create or increase demand for the uneconomic provision of services to the locality, and
 - (c) *

* Amendment: Rural Lands SEPP clause deleted

This provides for crown portions to have a dwelling entitlement where a lot of similar size and impact could otherwise be created under clause 16.

With respect to lot area, generally the crown portion is to be commensurate with the 2-10ha requirement under clause 16 although there may be mitigating circumstances that permit a lot of larger area, provided that all other assessment criteria under the plan are satisfied.

(3) *

(4) Consent may be granted to a development application made pursuant to subclause (2) for land within an existing holding that at 1 July 2000 was owned separately from any other land within the existing holding, even where that development application does not comply with one or more of paragraphs (d)¹, (e), (f), (g), (h) and (l)² of subclause (5) if a dwelling house was otherwise permissible on the land immediately prior to the commencement of this plan.

This savings provision applies to land within an existing holding (be it an allotment or crown portion) that at 1 July 2000 was owned separately from any other land within the existing holding - such that consent may be granted to the erection of a dwelling house on such land notwithstanding non compliance with some of the mandatory matters listed in sub clause 17(5).

(5) Consent must not be granted to the erection of a dwelling house pursuant to subclause (2) on any land unless the consent authority is satisfied that:

The following subclauses (a) - (m) are mandatory matters for consideration in the assessment of dwelling house applications.

There is no discretion in the application of these matters and application for consent have to demonstrate compliance with these subclauses.

(a) the land has a suitable dwelling house site, and

This means that a suitable area of land is available which has appropriate slope, aspect, access and site conditions to enable the construction of a dwelling house and any future improvements without adversely impacting on the visual and physical characteristics of the land.

(b) use of the land and the dwelling house will not adversely affect the economic viability of existing farmland, and

* Amendment: Rural Lands SEPP clause deleted

1 LEP Amendment 2

2 LEP Amendment 2

This means that Council must be satisfied that the proposed development would not adversely impact on the present and potential operations of a farm.

Impacts can include restrictions on the area of land available for existing farm operations and or any future farm expansion or intensification, plus buffers to protect "right to farm".

- (c) the dwelling house will not be located near operational aspects of a farm, and

Dwellings must not be located where the noise, smell, dust or other impacts of agricultural activities would interfere with the residential amenity of the dwellings.

- (d) the land is located outside areas designated as Class 1 or 2 in the New South Wales Department of Agriculture's "Agricultural Land Classification Atlas, Far South Coast Region New South Wales" dated August 1986, and

Copies of the land Classification Atlas can be viewed at Council's Bega branch office.

- (e) the land is not part of an inholding within a national park within the meaning of the National Parks and Wildlife Act 1974, and

An inholding refers to an area of freehold land that is totally surrounded by National Park.

- (f) the dwelling house will not be located within 100m of the boundary of a national park or nature reserve within the meaning of the National Parks and Wildlife Act 1974, and
- (g) the dwelling house has legal and practical access to an existing Council-maintained public road, and

All dwellings must have either direct access from an existing council maintained public road, or be connected to such a road by a formal easement for access or right of carriageway. The opening of new public roads and the development of crown public roads to Council standards are not acceptable in providing access to concessional lots given the significant costs such works generate for Council.

Practical access means fulltime 2WD access is achievable to the land.

- (h) use of the land and the dwelling house will not create a need for any additional access onto a State highway or an arterial road, and

This means that the development does not necessitate an additional access point from a state highway or arterial road. Arterial roads are shown on sheet 31 of the LEP map series.

Existing access points in the form of driveways, gates, etc can be relocated to meet engineering design standards if a more appropriate and safer location is achieved.

- (i) the dwelling house will be located outside any areas of bushfire hazard identified by the Council, and

Refer to guidelines document "Planning for Bushfire Protection 2001". (Planning NSW and NSW Rural Fire Service). Copies can be obtained from Planning NSW direct. Council has mapping of bushfire hazard areas.

- (j) the dwelling house is to be serviced by existing electricity reticulation or short extensions from the existing reticulation network, or utilises alternative stand-alone electric power systems, and

Advice from Country Energy should be obtained and submitted with the application.

- (k) the land has soils suitable for on-site sewage management disposal, and

Refer to Council's Development Control Plan No 5 On-Site Sewage Management for specific requirements.

- (l) the land does not contain or adjoin perennial streams and does not have access by easement for drawing water from perennial streams, and

See definition of "perennial stream" in the Dictionary.

- (m) the dwelling house and its use will not adversely affect important features of cultural or natural heritage nor disrupt regional ecological systems or processes.

Advice from the National Parks and Wildlife Service should be obtained in this regard. Council may require a cultural or natural heritage report if the land lies within an area mapped by Council as sensitive or it is the opinion of Council the land might be sensitive.

- 6) Nothing in subclause (1) shall prevent the erection of a dwelling house on land in Zone 1 (a) on which another dwelling house has been lawfully erected if the first mentioned dwelling house is intended to replace the other dwelling house and is not to be occupied until the other dwelling house is demolished or its occupation has permanently ceased.

- (7) Despite any other provision of this plan, consent may be granted to the erection of a dwelling house on an allotment in Zone 1 (a) resulting from a minor boundary adjustment, consolidation, road widening or acquisition for a public purpose or a combination of these where the consent authority is satisfied that the allotment is substantially the same as the allotment that existed immediately prior to the minor boundary adjustment, consolidation, road widening or acquisition for a public purpose and the erection of a dwelling house would be permissible on that former allotment under this clause.

This clause enables lots affected by a boundary adjustment, consolidation or road widening/acquisition to retain a dwelling entitlement but only if a dwelling house would have been previously permitted on the land subject to development consent.

In this subclause, **minor boundary adjustment** means an alteration of a boundary between allotments:

- (a) that does not result in the creation of any additional number of allotments, and
 - (b) that the consent authority is satisfied is of a minor nature and will not result in any significant adverse environmental effect.
- (8) In considering whether to grant consent to a development application made pursuant to subclause (6) or (7), the consent authority must have regard to the matters for consideration listed in subclause (5).

The mandatory assessment criteria in 16(5) are to be considered in the assessment of all applications made under 16(6) and 16(7) of this plan.

- (9) Consent may be granted to the erection of a second dwelling house on any allotment in Zone 1 (a) on which a dwelling house may be erected under this clause, subject to the following:
- (a) compliance with all requirements under this plan that would apply if only one dwelling house was proposed to be erected on the allotment, and

An additional dwelling house is permitted on Zone 1(a) land:

- (i) Being an allotment in accordance with 17(1) subject to compliance with all relevant matters under the plan and development consent.
- (ii) Being an allotment in accordance with 17(2) subject to compliance with all relevant matters under the plan including 17(5) and development consent.

- (b) the development resulting in not more than two dwellings on the allotment, and
 - (c) the land not being used for an ecotourism facility or tourist accommodation.
- (10) An allotment in Zone 1 (a) containing more than one dwelling house shall not be subdivided except in conformity with clause 15*.

Subdivision of a second dwelling house on Zone 1(a) land is not permitted unless the requirements for subdivision under clauses 15 and 16 are met.

17A Dwelling entitlements on existing concessional lots*

The amendment of this plan by the *State Environmental Planning Policy (Rural Lands) 2008* does not affect any entitlement arising under a provision of this plan (as in force before that amendment) to erect a dwelling house on a lot, if:

- (a) the lot was created before that commencement, or
- (b) development consent to the creation of the lot was applied for or granted, before that commencement.

18 Controls for subdivision for other purposes within Zone 1 (a)

- (1) This clause applies to land in Zone 1 (a).
- (2) Consent may be granted to the subdivision of land to create an allotment that, in the opinion of the consent authority, is intended to be used for a purpose other than agriculture or a dwelling house provided that:
 - (a) none of the land to be subdivided is prime crop and pasture land, and
 - (b) the area of each allotment to be created by the subdivision is appropriate having regard to the purpose for which it is being created, and

* Amendment: Rural Lands SEPP "or 16" deleted

* Amendment: Rural Lands SEPP clause inserted

- (c) the purpose for which the allotment is to be used involves the supply of goods or services for which there is a demand in the locality, and
- (d) the proposed use of the allotment is consistent with the objectives of the zone.

Clause 9 of the *State Environmental Planning Policy (Rural Lands) 2008* enables subdivision of smaller lots than allowed by this plan for the purposes of primary production.*

19 Development in Zone 1 (c)

- (1) Consent must not be granted to a subdivision of land within Zone 1 (c) which creates allotments intended to be used for the erection of dwelling houses, if the proposed allotments will have an area of less than 5,000 square metres.

This clause should be read in conjunction with the provisions contained in Council's Development Control Plan No 9 Rural Residential Development.

- (2) Before granting consent to the subdivision of land within Zone 1 (c) the consent authority must assess whether the size of each proposed allotment is appropriate. The following matters must be taken into consideration:
 - (a) the ability of the land to accommodate on-site disposal of household waste water,
 - (b) the standard and capacity of public roads serving the land, having regard to the likely volume of traffic to be generated as a consequence of the density of the subdivision and the means available to improve roads to a standard appropriate to the level of traffic likely to be generated,
 - (c) the availability of other utility services and social services, having regard to the likely demand for those services and the costs of their provision,
 - (d) the size of the proposed allotments having regard to the desirable sequence of development of land within Zone 1 (c),

* Amendment: Rural Lands SEPP clause inserted

- (e) the likely impact the development will have on other land and, in particular, on land located between the land to be subdivided and major public roads and utility services,
 - (f) the nature and topography of the land having regard to the density of subdivision,
 - (g) the desirability of maintaining a low density of development in the primary catchment areas of lakes and waterways, areas of relatively high agricultural production potential or other areas where intensive subdivision may create a significant risk of soil erosion or pollution of the environment,
 - (h) the desirability of providing a range and mix of allotment sizes,
 - (i) the need to maintain a semi-rural character in the area, and
 - (j) the purpose for which the land is to be used after subdivision.
- (3) In considering the design of a proposed subdivision of land within Zone 1 (c), the consent authority must have regard to:
- (a) where the land may, in the opinion of the consent authority, be suitable for long-term urban development, whether the subdivision has been designed to facilitate its possible future resubdivision, and
 - (b) the necessity for and ability to construct a dam on each proposed allotment, and
 - (c) whether the subdivision will enable the subsequent erection of dwelling houses in a manner that appropriately relates dwellings to each other and to the topography of the land, and
 - (d) the risk of bushfires, and
 - (e) the extent to which the layout and orientation of allotments and the subsequent siting of dwelling houses on those allotments will minimise potential visual, nuisance or other conflicts related to existing and potential development on land in an adjoining zone, and
 - (f) features of cultural and natural heritage and landscape elements that are important for maintaining functioning ecological systems.

- (4) Consent must not be granted to the subdivision of land within Zone 1 (c) which has frontage to an arterial road unless vehicular access to each proposed allotment is provided by a road other than the arterial road, except where:
 - (a) an existing vehicular access point to the arterial road is able to be retained or relocated to serve no more than 2 proposed allotments, or
 - (b) it is unreasonable or impracticable to provide alternative access, and, in either case, vehicular access points are located and designed so as to minimise potential traffic hazards.
- (5) A person shall not erect a dwelling house on land within Zone 1 (c) having an area of less than 5,000 square metres.
- (6) Consent must not be granted to the subdivision of attached or detached dual occupancy development within Zone 1 (c).

This subclause expressly prohibits the subdivision of attached and detached dual occupancy development on Zone 1(c) land.

Land zoned 1(c) is under active review. Please check with Council's Strategic Planning section about individual planning studies that may apply to this land.

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