

6.0 Assessment of an Application for Use or Development

6.1 Application Requirements

6.1.1 An application must be made for any use or development for which a permit is required under this planning scheme.

6.1.2 An application must include:

- (a) a signed application form;
- (b) any written permission and declaration of notification required under s.52 of the Act and, if any document is signed by the delegate, a copy of the delegation;
- (c) details of the location of the proposed use or development;
- (d) a copy of the current certificate of title for all land to which the permit sought is to relate, including the title plan; and
- (e) a full description of the proposed use or development.

6.1.3 In addition to the information that is required by clause 6.1.2, a planning authority may, in order to enable it to consider an application, require such further or additional information as the planning authority considers necessary to satisfy it that the proposed use or development will comply with any relevant standards and purpose statements in the zone, codes or a specific area plan, applicable to the use or development including:

- (a) any schedule of easements if listed in the folio of the title and appear on the plan, where applicable;
- (b) a site analysis and site plan at a scale acceptable to the planning authority showing, where applicable:
 - (i) the existing and proposed use(s) on the site;
 - (ii) the boundaries and dimensions of the site;
 - (iii) topography including contours showing AHD levels and major site features;
 - (iv) natural drainage lines, watercourses and wetlands on or adjacent to the site;
 - (v) soil type;
 - (vi) vegetation types and distribution including any known threatened species, and trees and vegetation to be removed;
 - (vii) the location and capacity and connection point of any existing services and proposed services;
 - (viii) the location of easements on the site or connected to the site;
 - (ix) existing pedestrian and vehicle access to the site;
 - (x) the location of existing and proposed buildings on the site;
 - (xi) the location of existing adjoining properties, adjacent buildings and their uses;

- (xii) any natural hazards that may affect use or development on the site;
 - (xiii) proposed roads, driveways, parking areas and footpaths within the site;
 - (xiv) any proposed open space, common space, or facilities on the site; and
 - (xv) proposed subdivision lot boundaries;
- (c) where it is proposed to erect buildings, a detailed layout plan of the proposed buildings with dimensions at a scale of 1:100 or 1:200 as required by the planning authority showing, where applicable:
- (i) the internal layout of each building on the site;
 - (ii) the private open space for each dwelling;
 - (iii) external storage spaces;
 - (iv) parking space location and layout;
 - (v) major elevations of every building to be erected;
 - (vi) the relationship of the elevations to existing ground level, showing any proposed cut or fill;
 - (vii) shadow diagrams of the proposed buildings and adjacent structures demonstrating the extent of shading of adjacent private open spaces and external windows of buildings on adjacent sites; and
 - (viii) materials and colours to be used on roofs and external walls.

6.2 Categorising Use or Development

- 6.2.1 Each proposed use or development must be categorised into one of the Use Classes in Table 6.2.
- 6.2.2 A use or development that is directly associated with and a subservient part of another use on the same site must be categorised into the same Use Class as that other use.
- 6.2.3 If a use or development fits a description of more than one Use Class, the Use Class most specifically describing the use applies.
- 6.2.4 If a use or development does not readily fit any Use Class, it must be categorised into the most similar Use Class.
- 6.2.5 If more than one use or development is proposed, each use that is not directly associated with and subservient to another use on the same site must be individually categorised into a Use Class.
- 6.2.6 Notwithstanding sub-clause 6.2.1 of this planning scheme, development which is for subdivision, a sign, land filling, retaining walls or coastal protection works does not need to be categorised into one of the Use Classes.

Table 6.2 Use Classes

| Use Class | Description |
|--|--|
| Bulky Goods Sales | use of land for the sale of heavy or bulky goods which require a large area for handling, storage and display. Examples include garden and landscaping materials suppliers, rural suppliers, timber yards, trade suppliers, showrooms for furniture, electrical goods and floor coverings, and motor vehicle, boat or caravan sales. |
| Business and Professional Services | use of land for administration, clerical, technical, professional or similar activities. Examples include a bank, call centre, consulting room, funeral parlour, medical centre, office, post office, real estate agency, residential support services, travel agency and veterinary centre. |
| Community Meeting and Entertainment | use of land for social, religious and cultural activities, entertainment and meetings. Examples include an art and craft centre, place of worship, cinema, civic centre, function centre, library, museum, public art gallery, public hall and theatre, community centre and neighbourhood centre. |
| Crematoria and Cemeteries | use of land for the burial or cremation of human or animal remains, and if land is so used, the use includes a funeral chapel. |
| Custodial Facility | use of land, other than psychiatric facilities, for detaining or reforming persons committed by the courts or for the purpose of court proceedings or police investigations. Examples include a prison, remand centre and any other type of detention facility. |
| Domestic Animal Breeding, Boarding or Training | use of land for breeding, boarding or training domestic animals. Examples include an animal pound, cattery and kennel. |
| Educational and Occasional Care | use of land for educational or short-term care purposes. Examples include a childcare centre, day respite centre, employment training centre, kindergarten, primary school, secondary school and tertiary institution. |
| Emergency Services | use of land for police, fire, ambulance and other emergency services including storage and deployment of emergency vehicles and equipment. Examples include ambulance station, fire station and police station. |
| Equipment and Machinery Sales and Hire | use of land for displaying, selling, hiring or leasing plant, equipment or machinery, associated with, but not limited to, cargo-handling, construction, earth-moving, farming, industry and mining. |
| Extractive Industry | use of land for extracting or removing material from the ground, other than Resource Development, and includes the treatment or processing of those materials by crushing, grinding, milling or screening on, or adjoining the land from which it is extracted. Examples include mining, quarrying, and sand mining. |

| Use Class | Description |
|--|--|
| Food Services | use of land for selling food or drink, which may be prepared on the premises, for consumption on or off the premises. Examples include a cafe, restaurant and take away food premises. |
| General Retail and Hire | use of land for selling goods or services, or hiring goods. Examples include an adult sex product shop, amusement parlour, beauty salon, betting agency, bottle shop, cellar door sales, commercial art gallery, department store, hairdresser, market, primary produce sales, local shop, shop, shop front dry cleaner and supermarket. |
| Hospital Services | use of land to provide health care (including preventative care, diagnosis, medical and surgical treatment, rehabilitation, psychiatric care and counselling) to persons admitted as inpatients. If the land is so used, the use includes the care or treatment of outpatients. |
| Hotel Industry | use of land to sell liquor for consumption on or off the premises. If the land is so used, the use may include accommodation, food for consumption on the premises, entertainment, dancing, amusement machines and gambling. Examples include a hotel, bar, nightclub, adult entertainment venue and tavern. |
| Manufacturing and Processing | use of land for manufacturing, assembling or processing products other than Resource Processing. Examples include boat building, brick making, cement works, furniture making, glass manufacturing, metal and wood fabrication, mineral processing and textile manufacturing. |
| Motor Racing Facility | use of land (other than public roads) to race, rally, scramble or test vehicles, including go-karts, motor boats, and motorcycles, and includes other competitive motor sports. |
| Natural and Cultural Values Management | use of land to protect, conserve or manage ecological systems, habitat, species, cultural sites or landscapes and may include track work and maintenance, park management outbuildings and offices, park entry signs, visitor information signs, information and interpretation booths. |
| Passive Recreation | use of land for informal leisure and recreation activities principally conducted in the open. Examples include public parks, gardens and playgrounds, and foreshore and riparian reserves. |
| Pleasure Boat Facility | use of land to provide facilities for boats operated primarily for pleasure or recreation, including boats operated commercially for pleasure or recreation. Examples include a marina, boat ramp and jetty. |

| Use Class | Description |
|------------------------------|---|
| Port and Shipping | <p>use of land for:</p> <p>(a) berthing, navigation aid, servicing and maintenance of marine vessels which may include loading, unloading and storage of cargo or other goods, and transition of passengers and crew; or</p> <p>(b) maintenance dredging.</p> <p>Examples include berthing and shipping facilities, shipping container storage, hardstand loading and unloading areas, passenger terminals, roll-on roll-off facilities and associated platforms, stevedore and receipt offices, and a wharf.</p> |
| Recycling and Waste Disposal | <p>use of land to collect, dismantle, store, dispose of, recycle or sell used or scrap material. Examples include a recycling depot, refuse disposal site, scrap yard, vehicle wrecking yard and waste transfer station.</p> |
| Research and Development | <p>use of land for electronic technology, biotechnology, or any other research and development purposes, other than as part of an educational use.</p> |
| Residential | <p>use of land for self-contained or shared accommodation. Examples include a secondary residence, boarding house, communal residence, home-based business, home-based child care, residential care facility, residential college, respite centre, assisted housing, retirement village and single or multiple dwellings.</p> |
| Resource Development | <p>use of land for propagating, cultivating or harvesting plants or for keeping and breeding of livestock or fishstock. If the land is so used, the use may include the handling, packing or storing of produce for dispatch to processors. Examples include agricultural use, aquaculture, controlled environment agriculture, crop production, horse stud, intensive animal husbandry, plantation forestry, forest operations, turf growing and marine farming shore facility.</p> |
| Resource Processing | <p>use of land for treating, processing or packing plant or animal resources. Examples include an abattoir, animal saleyard, cheese factory, fish processing, milk processing, winery, brewery, cidery, distillery, and sawmilling.</p> |
| Service Industry | <p>use of land for cleaning, washing, servicing or repairing articles, machinery, household appliances or vehicles. Examples include a car wash, commercial laundry, electrical repairs, motor repairs and panel beating.</p> |
| Sports and Recreation | <p>use of land for organised or competitive recreation or sporting purposes including associated clubrooms. Examples include a bowling alley, fitness centre, firing range, golf course or driving range, gymnasium, outdoor recreation facility, children's play centre, swimming pool, race course, sports ground, and major sporting facility.</p> |

| Use Class | Description |
|----------------------------------|--|
| Storage | use of land for storage or wholesale of goods, and may incorporate distribution. Examples include boat and caravan storage, self storage, contractors yard, freezing and cool storage, liquid fuel depot, solid fuel depot, vehicle storage, warehouse and woodyard. |
| Tourist Operation | use of land specifically to attract tourists, other than for accommodation. Examples include a theme park, visitor centre or interpretation centre, wildlife park and zoo. |
| Transport Depot and Distribution | use of land for distributing goods or passengers, or to park or garage vehicles associated with those activities, other than Port and Shipping. Examples include an airport, bus terminal, council depot, heliport, mail centre, railway station, road or rail freight terminal and taxi depot. |
| Utilities | <p>use of land for utilities and infrastructure including:</p> <ul style="list-style-type: none"> (a) telecommunications; (b) electricity generation; (c) transmitting or distributing gas, oil, or electricity; (d) transport networks; (e) collecting, treating, transmitting, storing or distributing water; or (f) collecting, treating, or disposing of storm or floodwater, sewage, or sullage. <p>Examples include an electrical sub-station or powerline, gas, water or sewerage main, optic fibre main or distribution hub, pumping station, railway line, retention basin, road, sewage treatment plant, storm or flood water drain, water storage dam and weir.</p> |
| Vehicle Fuel Sales and Service | use of land primarily for the sale of motor vehicle fuel and lubricants, and if the land is so used, the use may include the routine maintenance of vehicles. An example is a service station. |
| Vehicle Parking | use of land for the parking of motor vehicles. Examples include single and multi-storey car parks. |
| Visitor Accommodation | use of land for providing short or medium-term accommodation for persons away from their normal place of residence on a commercial basis or otherwise available to the general public at no cost. Examples include a backpackers hostel, camping and caravan park, holiday cabin, motel, overnight camping area, residential hotel and serviced apartment complex. |

6.3 Qualification of Use

6.3.1 A Use Class may be subject to qualification in a Use Table which provides for conditions or limitations on the Use Class.

6.4 Requirement for a Permit

6.4.1 Except as provided in sub-clauses 6.5 and 6.6 of this planning scheme, use or development of land must not be commenced or carried out:

- (a) without a permit granted and in effect in accordance with the Act and the provisions of this planning scheme; or
- (b) in a manner contrary to the conditions and restrictions of a permit.

6.4.2 A change from an individual use to another individual use, whether within the same Use Class or not, requires a permit unless the planning scheme specifies otherwise.

6.5 Exempt Use or Development

6.5.1 A permit is not required to commence or carry out a use or development if it is exempt from requiring a permit under clause 4.0 of this planning scheme.

6.6 No Permit Required Use or Development

6.6.1 A permit is not required to commence or carry out a use or development if:

- (a) the use is within a Use Class specified in the applicable Use Table as being a use for which no permit is required;
- (b) the use or development complies with each applicable standard and does not rely on any Performance Criteria to comply with each applicable standard;
- (c) the use or development is not Discretionary under any other provision of this planning scheme;
- (d) the use or development is not Prohibited under any other provision of this planning scheme; and
- (e) a permit for such use and development is not required by a code.

6.6.2 A permit is not required to commence or carry out a use or development if it is No Permit Required under any other provision of this planning scheme.

6.7 Permitted Use or Development

6.7.1 A use or development must be granted a permit if:

- (a) the use is within a Use Class specified in the applicable Use Table as being a use which is Permitted;
- (b) the use or development complies with each applicable standard and does not rely on any Performance Criteria to comply with each applicable standard;
- (c) the use or development is not Discretionary under any other provision of this planning scheme; and
- (d) the use or development is not Prohibited under any other provision of this planning scheme.

6.7.2 A development that is not required to be categorised under sub-clause 6.2.6 of this planning scheme and must be granted a permit if:

- (a) there are applicable standards that apply to the development;
- (b) the development complies with each applicable standard and does not rely on any Performance Criteria to comply with each applicable standard; and
- (c) the development is not Discretionary or Prohibited under any other provision of this planning scheme.

6.8 Discretionary Use or Development

6.8.1 The planning authority has a discretion to refuse or permit a use or development if:

- (a) the use is within a Use Class specified in the applicable Use Table as being a use which is Discretionary;
- (b) the use or development relies on a Performance Criterion to demonstrate compliance with an applicable standard; or
- (c) it is Discretionary under any other provision of this planning scheme.

6.8.2 The planning authority has a discretion under clause 7.10 to refuse or permit a development that is not required to be categorised under sub-clause 6.2.6 of this planning scheme if:

- (a) there are no applicable standards that apply to the development; or
- (b) the use or development relies on any Performance Criteria to demonstrate compliance with an applicable standard; and
- (c) the development is not Prohibited under any other provision of this planning scheme.

6.9 Prohibited Use or Development

6.9.1 A use or development is Prohibited and must not be granted a permit if:

- (a) the use is not specified as being No Permit Required, Permitted or Discretionary within a Use Class in the applicable Use Table;
- (b) the use or development does not comply with an Acceptable Solution for an applicable standard and there is no corresponding Performance Criterion; or
- (c) it is Prohibited under any other provision of this planning scheme.

6.10 Determining Applications

6.10.1 In determining an application for any permit for use or development the planning authority must, in addition to the matters required by section 51(2) of the Act, take into consideration:

- (a) all applicable standards and requirements in this planning scheme; and
- (b) any representations received pursuant to and in conformity with section 57(5) of the Act, but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

6.10.2 In determining an application for a permit for a Discretionary use the planning authority must, in addition to the matters referred to in sub-clause 6.10.1 of this planning scheme, have regard to:

- (a) the purpose of the applicable zone;
- (b) any relevant local area objective for the applicable zone;
- (c) the purpose of any applicable code;
- (d) the purpose of any applicable specific area plan;
- (e) any relevant local area objective for any applicable specific area plan; and
- (f) the requirements of any site-specific qualification,

but in the case of the exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

6.11 Conditions and Restrictions on a Permit

6.11.1 When deciding whether to include conditions in a permit, the planning authority may consider the matters contained in sub-clauses 6.10.1 and 6.10.2 of this planning scheme.

6.11.2 Conditions and restrictions imposed by the planning authority on a permit may include:

- (a) requirements that specific acts be done to the satisfaction of the planning authority;
- (b) staging of a use or development, including timetables for commencing and completing stages;
- (c) the order in which parts of the use or development can be commenced;
- (d) limitations on the life of the permit;
- (e) requirements to modify the development in accordance with predetermined triggers, criteria or events;
- (f) construction or traffic management; and
- (g) erosion, and stormwater volume and quality controls.

6.11.3 Conditions or restrictions imposed by the planning authority on a permit for use or development in relation to the management of contaminated land subject to the *Macquarie Point Development Corporation Act 2012*:

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- (a) must not be inconsistent with, or impose any additional requirements to, a certificate from an accredited environmental auditor given under section 39F of the *Macquarie Point Development Corporation Act 2012*; and
- (b) may include a requirement for a certificate of an accredited environmental auditor to be granted.