

9 ENVIRONMENTAL CONSIDERATIONS

9.1 PRELIMINARY

9.1.1 Land to which this Section applies

This section applies to **all land** in the Bathurst Regional Local Government Area (LGA).

9.1.2 Strategic priorities and objectives

The Bathurst Region Urban Strategy 2007 and the Bathurst Region Rural Strategy 2008 establish the following key priorities and objectives with respect to key environmental issues dealt with in this section.

Strategic Priorities

- a) To protect and enhance biodiversity and encourage revegetation and better biodiversity management.
- b) To protect water quality, particularly the drinking water catchments.
- c) To minimise the impacts of flooding on human settlement patterns.
- d) To manage bushfire prone land.
- e) To minimise pollution hazards that may arise from the use of on-site effluent disposal systems.
- f) To identify opportunities to improve the environmental sustainability of building design.
- g) To minimise the impacts of climate change.

Strategic Objectives

- a) To protect, enhance and manage areas of high biodiversity conservation values and scenic quality.
- b) To manage areas of vegetation as a means to improve biodiversity connectivity and water quality, reduce erosion and sedimentation, nutrient flows and salinity.
- c) To promote the restoration of lost biodiversity.
- d) To minimise the impact of fire protection measures on the regions biodiversity.
- e) To minimise the impacts of flooding on human settlement patterns.
- f) To minimise the risk to property and the community from bushfire and ensure adequate bushfire protection is afforded to new lots.
- g) To make provision to minimise the impacts of climate change.
- h) To protect, maintain and improve the diversity and stability of landscapes, waterways and biodiversity.
- i) To protect vulnerable groundwater resources from contamination.
- j) To provide development opportunities and appropriate development controls for flood protected lands.

- k) To ensure bushfire protection can be afforded to existing settlement areas in a manner that does not limit future growth.
- l) To encourage environmentally sustainable building design and green power.

9.2 LAND RESOURCES

9.2.1 Land to which this Section applies

This section applies to land within Zone **RU1** Primary Production and identified wholly or partially as **Sensitive Land Areas** on DCP Map No. **29** – Land Resources.

9.2.2 Objectives

- a) To improve and maintain the diversity and stability of landscapes including:
 - i) restricting development on land that is unsuitable for development due to steep slopes or shallow soils or both,
 - ii) restricting development on land that is subject to soil salinity,
 - iii) restricting the removal of native vegetation,
 - iv) restricting development on land that is subject to permanent inundation, and
 - v) restricting development on land with a high proportion of rock outcropping.

9.2.3 Development standards

- a) Consent should generally not be granted to development on land identified as Land Capability Class 8 on DCP Map No. **29** – Land Resources.
- b) Consent should generally not be granted to development on land identified as Karst Extent on DCP Map No. **29** – Land Resources.
- c) Consent should generally not be granted to development on land identified as land subject to salting on DCP Map No. **29** – Land Resources.
- d) Consent must not be granted to any development including any building, subdivision or work on land identified as **Sensitive Land Areas** on DCP Map No. **29** – Land Resources unless the consent authority has considered an environmental assessment that indicates how the development will achieve the following outcome:
 - i) *To improve and maintain the diversity and stability of the landscape.*
- e) A Development Application lodged for any development on any lands identified in (d) above must be accompanied by the following environmental assessment:
 - i) **Site Plan (preferably using an aerial photograph)**
 The site plan must detail the following:
 - The proposed development site including where all works and buildings are to be located.
 - Extent of land proposed to be disturbed (including buildings, access, land clearing and effluent disposal, as applicable).

- Any land identified as land capability class 7 or 8 on DCP Map No. **29** – Land Resources.
- Any land identified as Karst Extent on DCP Map No. **29** – Land Resources.
- Any land identified as subject to salting on DCP Map No. **29** – Land Resources.
- Any land identified as subject to severe or extreme rill or sheet erosion on DCP Map No. **29** – Land Resources.
- Any land subject to high rock content (greater than 50% of the surface area).
- Any land regularly inundated (including drainage lines).
- Steep or awkward slopes (gradient exceeding 18 degrees).
- Any other environmental constraints, including drainage lines and vegetation cover.

In regards to any **Sensitive Land Areas** identified on DCP Map No. **29** – Land Resources, the extent of that sensitivity is to be ground truthed and accurately mapped on the site plan.

ii) **Assessment**

The assessment must consist of a written statement which explains how the proposed development achieves the outcome identified in (d) above, and should include the following information.

a) Impact of the development on the site's land resources

A summary of the proposed development and how it will impact on existing constraints identified on the site plan. For example, amount of soil to be removed, cut and fill and vegetation removal.

Note: NSW OEH's *The land and soil capability assessment scheme (second approximation) (2012)* may be a useful reference.

b) Proposed mitigation measures

This section should include details of proposed mitigation measures. For example, extent of erosion and sediment controls that will be used during and after construction, revegetation proposed and how soil disturbance will be minimised.

Note: The Central West Catchment Management Authority's *Best Management Guide – Land and Soil Capability*, may provide a useful reference.

c) Summary

This section should summarise how the proposed development achieves the required outcome:

- *that the diversity and stability of the landscape is maintained and improved.*

9.3 RIPARIAN LAND AND WATERWAYS

9.3.1 Land to which this Section applies

This section applies to land within Zone **RU1** – Primary Production and identified wholly or partially as **Sensitive Waterways** on DCP Map No. **30** – Riparian Land and Waterways.

9.3.2 Objectives

- a) To improve or maintain the integrity of identified riparian land and waterways.

9.3.3 Development standards

- a) Consent must not be granted to any development including any building, subdivision or work on land identified wholly or partially as **Sensitive Waterways** on DCP Map No. **30** – Riparian Land and Waterways unless the consent authority has considered an environmental assessment that indicates how the development will achieve the following outcomes:

- i) *Protect natural water flows.*
- ii) *Protect water quality within waterways.*
- iii) *Protect the stability of the bed and banks of waterways.*
- iv) *Protect the hydrological and ecological functions of riparian lands and wetlands.*

Note: For the purposes of this Plan, **Sensitive Waterways** includes land 40 metres either side of a waterway identified on DCP Map No. **30** – Riparian Land and Waterways.

Note: Certain development types and activities may be referred to the NSW Office of Water, and/or NSW Fisheries as an Integrated Development Application. Works within the waterway or riparian corridor may also require a Controlled Activity Permit to be issued. To determine whether further permits are required, please discuss your proposal with the NSW Office of Water or NSW Fisheries.

- b) A Development Application lodged for any development on any lands identified above must be accompanied by the following environmental assessment:

i) **Site Plan (preferably using an aerial photograph)**

The site plan must detail the following:

- The proposed development site including where all works and buildings are to be located (including any water crossings or bridges).
- Extent of land proposed to be disturbed (including buildings, access, crossings/bridges, land clearing and effluent disposal).
- Any existing visible stream or bank erosion.
- Any areas of significant habitat.

- Extent of existing vegetation (including riparian vegetation) and that vegetation proposed to be removed as part of the development.
- Any other environmental constraints, as applicable.

ii) **Assessment**

The assessment must consist of a written statement which explains how the proposed development achieves the required outcomes listed in (a) above, and should include the following information.

a) Impact of development on sensitive waterway

This section should summarise the impact of the proposed development on the sensitive waterway. This should include how the development might impact on:

- The quality of natural water flows to receiving waters.
- The water quality of receiving waters, including aquifers.
- The waterways natural flow paths.
- The stability of the waterway's bed, shore and/or bank.
- The hydrological and biological function of the waterway, riparian zone or wetland.

Note: Council may require additional information to be provided if it is possible that Threatened Species and Endangered Ecologically Communities (EEC) have previously been identified on or near the site. For further information contact Council's Environmental Section.

Note: Where the site plan demonstrates no disruption to the sensitive waterway area (i.e. the proposed development is wholly located more than 40 metres from the waterway and no bridges or water crossings are proposed) all that is required is a statement that the proposed development achieves the required outcomes.

b) Proposed mitigation measures

This section should include details of proposed mitigation measures. For example: extent of erosion and sediment controls proposed to be used during and after construction and/or proposed revegetation (including maintenance details to ensure survival rate is maximised).

The design of the storm water discharge points to prevent erosion should be provided as part of the Development Application.

Note: The Salinity and Water Quality Alliance's *Stormwater to Smartwater Policy* may provide a useful reference particularly with respect to water sensitive urban design principles.

c) Summary

This section should summarise how the proposed development achieves the required outcomes to:

- *Protect natural water flows.*
- *Protect water quality within waterways.*
- *Protect the stability of the bed and banks of waterways.*
- *Protect the hydrological and ecological functions of riparian lands and wetlands.*

For example: Soil disturbance is minimised and no connectivity of habitat lost due to replanting.

9.4 BIODIVERSITY

9.4.1 Land to which this Section applies

This section applies to land within Zone **RU1** Primary Production and identified wholly or partially as **High or Moderate Biodiversity Sensitivity** on DCP Map No. **31** - Biodiversity.

9.4.2 Objectives

- a) To improve or maintain the integrity of areas of biodiversity significance.

9.4.3 Development standards

- a) Consent must not be granted to any development including any building, subdivision or work on land identified as **High or Moderate Biodiversity Sensitivity** on DCP Map No. **31** - Biodiversity unless the consent authority has considered an environmental assessment that indicates how the development will achieve the following outcomes:
- i) *Protect biological diversity, native flora and fauna and their habitat.*
 - ii) *Protect the ecological processes necessary for ecosystem health.*
 - iii) *Encourage the recovery of threatened species, communities, populations and their habitats.*

Note: Biodiversity includes plant and animal life.

Note: Council may require additional information to be provided if it is possible that Threatened Species and Endangered Ecologically Communities (EEC) have previously been identified on or near the site. For further information contact Council's Environmental Section. See also section **9.8 - Flora and Fauna Surveys** of this Plan.

- b) A Development Application lodged for any development on any lands identified above must be accompanied by the following environmental assessment.
- i) **Site Plan (preferably using an aerial photograph)**
The site plan must detail the following:
 - The proposed development site including where all works (including fencing) and buildings are to be located.
 - The extent of land proposed to be disturbed (including buildings, access, land clearing, fence lines and effluent disposal, as applicable).

- The extent and type of existing vegetation (including ground vegetation) and details of the vegetation proposed to be removed as part of the development.
- Any other environmental constraints, as applicable.

ii) **Assessment**

The assessment must consist of a written statement which explains how the proposed development achieves the required outcomes. In this regard it should include the following information, as a minimum.

a) Impact of development on biodiversity

This section should summarise how the proposed development will impact on existing biodiversity. This should include how the development might impact on:

- i) native terrestrial flora and fauna, their habitat, and their interrelationship with the environment,
- ii) native aquatic flora and fauna, their habitat, and their interrelationship with the environment, and
- iii) the physical and biological function of the ecosystem.

Note: Where the site plan demonstrates no disruption to existing vegetation or function of the ecosystem all that is required is a statement that the proposed development achieves the required outcome.

b) Proposed mitigation measures

Impacts may also come in other ways eg through additional fencing, removal of dead and fallen timber or domestic pets.

This section should include details of how biodiversity loss will be mitigated, e.g. proposed re-vegetation (on or off the site) including maintenance details to ensure survival rate is maximised.

c) Summary

This section should summarise how the proposed development achieves the required outcomes to:

- i) *Protect biological diversity, native flora and fauna and their habitat.*
- ii) *Protect the ecological processes necessary for ecosystem health.*
- iii) *Encourage the recovery of threatened species, communities, populations and their habitats.*

9.5 GROUNDWATER

9.5.1 Land and development to which this Section applies

This section applies to land identified wholly or partially as having a **High or Moderately High Groundwater Vulnerability** on DCP Map No. **30** – Riparian Land and Waterways for the following development types:

- a) intensive livestock agriculture,
- b) liquid fuel depots,
- c) mines,
- d) livestock processing industries,
- e) service stations,
- f) sewerage systems,
- g) turf farming,
- h) waste disposal and resource recovery facilities,
- i) water supply systems, and
- j) on-site effluent disposal systems (excluding those relating to a single dwelling house – see sections 3.3.2 and 6.4).

9.5.2 Objectives

- a) To protect and preserve groundwater sources.

9.5.3 Development standards

- a) Consent must not be granted to development listed in section **9.5.1** above on land identified on DCP Map No. **30** – Riparian Land and Waterways as having a **high or moderately high groundwater vulnerability** unless the consent authority has considered an environmental/geotechnical assessment that indicates how the development will achieve the following outcomes:
 - i) *Protect existing groundwater sources.*
 - ii) *Protect the future extraction of groundwater sources for domestic and stock water supplies.*
 - iii) *Prevent adverse environmental impacts, including the risk of contamination of groundwater sources from on-site storage or disposal facilities.*
- b) A Development Application lodged for development on lands identified in section **9.5.1** above must be accompanied by the following environmental assessment.
 - i) **Site Plan (preferably using an aerial photograph).**
 The site plan must detail the following:
 - The proposed development, including where all works and buildings are to be located.

- Any proposed effluent disposal site.
- Extent of land proposed to be disturbed.
- Extent and type of existing vegetation (including ground vegetation) and details of the vegetation proposed to be removed as part of the development.
- Location of bores within 250 metres of the site.
- Any other environmental constraints, as applicable.

ii) **Assessment**

The assessment must consist of a written statement which explains how the proposed development achieves the required outcomes, and should include the following information.

a) Impact of development on groundwater sources

- Proposed method of effluent disposal.
- Soil and hydrological investigation. This section should investigate the soil and hydrological conditions of the area through on-site drilling to ascertain:
 - Soil lithology.
 - The depth of the shallowest groundwater aquifer.
 - The flow gradient of the aquifer.
 - The location of transmissive alluvial aquifers.
 - Water quality of the aquifer.
 - Potential interaction with the deeper aquifers.

b) Proposed mitigation measures

This section should include details of proposed mitigation measures including:

- The type of on-site effluent disposal system proposed that addresses matters raised by soil and hydrological investigations.
- Installation of groundwater monitoring systems.
- Proposed remedial actions should contamination be detected.
- Understandings of groundwater recharge areas and potential impacts.

c) Summary

This section should summarise how the proposed development achieves the required outcomes to:

- *Protect existing groundwater sources.*
- *Protect the future extraction of groundwater sources for domestic and stock water supplies.*
- *Prevent adverse environmental impacts, including the risk of contamination of groundwater sources from on-site storage or disposal facilities.*

9.6 FLOODING

9.6.1 Land to which this Section applies

This section applies to all land:

- in the Bathurst Regional LGA identified in a Flood Planning Area on **Map No 39** (Sheets 1 to 9) of this DCP and
- to which Clause **5.21 Flood Planning** of the LEP applies; and
- any land identified or known by Council as having the possibility of flooding.

9.6.2 Objectives

- a) to minimise the flood risk to life and property associated with the use of land;
- b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change;
- c) To maintain the existing flood regime and flow conveyance capacity and avoid significant adverse impacts on flood behaviour;
- d) To deal equitably and consistently (where possible) with applications for development on land affected by potential floods, in accordance with the principles contained in the Floodplain Development Manual, issued by the NSW Government.

9.6.3 Definitions

Note: A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.

For the purposes of **Clause 5.21** of the *Bathurst Regional Local Environmental Plan 2014*:

flood planning area means the land identified in the *flood planning area* on Map 39 - Flood Planning Map – Sheets 1 to 9 in the Bathurst Regional Development Control Plan 2014.

This section adopts the definitions under the LEP and those definitions listed hereunder:

Designated Flood: means the flood planning area as defined by the following designated floods:

- a) 1% AEP flood level plus a free board of 0.5 metres as determined by the *Bathurst Computer Based Flood Model*, as amended, for the Macquarie River and the Queen Charlotte's Vale Creek.

- b) 1% AEP flood level plus a freeboard of 0.5 metres as determined by the *Sofala Floodplain Risk Management Study 2007* for the Turon River.
- c) 1% AEP flood Level plus a freeboard of 0.5 metres as determined by the *Georges Plains Floodplain Risk Management Study 2007* for the Georges Plains Creek.
- d) For areas beyond the flood model or studies, including natural creeks and drainage channels, the 1% AEP flood is as calculated by accepted engineering methods, or the highest known flood mark as stated on a statutory declaration by a resident of the immediate area for greater than 30 years, or the flood of August 1986.

Note: The criteria outlined in Appendix B of the *NSW Government Floodplain Development Manual* shall be used for the assessment of flood hazard of those properties which are affected by flooding from the Macquarie River and Queen Charlotte's Vale Creek, and are included in the study area of the computer based flood model, utilising the depth and velocity calculations generated by the Model.

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

High Hazard Flood Areas: means lands as defined by the *Bathurst Floodplain Management Plan as amended*, the *Sofala Floodplain Risk Management Study 2007* and the *Georges Plains Floodplain Risk Management Study 2007*.

Low Hazard Flood Areas: means lands as defined by the *Bathurst Floodplain Management Plan as amended*, the *Sofala Floodplain Risk Management Study 2007* and the *Georges Plains Floodplain Risk Management Study 2007*. For watercourses not included in the *Bathurst Computer Based Flood Model*, Council has resolved that low hazard flood areas are those areas affected by 0.5 metres of flood water or less.

Development within areas to be protected by future levees: means areas identified and described within the *Bathurst Floodplain Management Plan as amended* as benefiting from future levee protection, including:

- i) Perthville

Flood Protected Land: means land shown to be protected by levees from the 1% AEP flood on the following DCP Maps:

- i) Map No. 32A - Havannah Street Area
- ii) Map No. 32B - Morrissett Street Area
- iii) Map No. 32C - Kelso Industrial Area
- iv) Map No. 32D - Stockland Drive Area
- v) Map No. 32E - Upfold Street Area (partial)
- vi) Map No. 32F – Gilmour Street Area
- vii) Map No 32G – Carlingford Street Area

Lands affected by a Natural Watercourse: means areas beyond the flood model or studies, including natural creeks and drainage channels, where the 1% AEP flood is as calculated by accepted engineering methods, or the highest known flood mark as stated on a statutory

declaration by a resident of the immediate area for greater than 30 years, or the flood of August 1986.

9.6.4 Development within the designated flood area

Development Standards

- a) All development within the designated flood area requires the consent of Council.
- b) All developments shall be generally assessed in accordance with the latest edition of the *NSW Floodplain Development Manual* as issued by the NSW Government.
- c) Development will not be permitted unless Council is satisfied that the proposed development will not increase the flood hazard rating or likely flood damage to any other property.

9.6.5 Development within high hazard flood areas

Development Standards

- a) No alteration in ground levels will be permitted, whether by excavation or filling, without the submission of a hydraulic study and prior development consent.
- b) The carrying out of any work or the erection of any structure, including fences, on land within the High Hazard Designated Flood Area will only be permitted if the land is outside the floodway, subject to low velocities, and is supported by a Flood Impact Assessment (FIA) showing that the works will have no adverse flooding affect on any other property.

9.6.6 Development within low hazard flood areas

Development Standards

Low Hazard – Floodway

- a) No alteration in ground levels, whether by excavation or filling, will be permitted without the submission of a hydraulic study and prior development consent. Neither the carrying out of any work, nor the erection of any structure, including fences, will be permitted in Low Hazard Floodway areas.

Low Hazard – Flood Storage and Flood Fringe

- a) Development consent is required to be obtained prior to any activity, work or building being carried out within the designated flood area. A hydraulic study may be required to be submitted with any Development Application.

New Development – not protected by a Levee Bank

- a) The floor level of any structure is to be 0.5 metres above the designated flood level, supplied by Council.

Existing Development – Non-Residential

- a) Extensions to existing non-residential buildings may be constructed at the same floor level as the existing building. The complete building is to be flood proofed to 0.5 metres above the designated flood level.

Existing Development – Residential

- a) Extensions to existing residential buildings will be determined by Council on the application's merits, having regard to the following matters:
 - i) Where the area of the extension is less than 50% of the existing floor area and the floor level of the existing house is above the designated flood level, the floor level of the extension may be constructed to the same level. The extension is to be flood proofed to 0.5 metres above the designated flood level.
 - ii) Floor levels are to be a minimum 0.5 metres above the 1% AEP flood.

Carports and Open Sheds

- a) Carports and open sheds must be constructed from flood compatible materials and may be constructed at existing floor levels.

All lands contiguous to the designated flood area less than 0.5 metres above the designated flood level

- a) All development is to comply with the standards outlined for Low Hazard – Flood Storage and Flood Fringe as outlined above.

9.6.7 Development within areas to be protected by future levees

Development Standards

- a) Council may consent to the development of land provided that as a result of the development there is:
 - i) No encroachment on the possible alignment of the levees.
 - ii) No increased potential flood damage, prior to levee protection.
 - iii) No adverse effects on other properties.
 - iv) Floor levels are a minimum 0.5 metres above the 1% AEP flood.

9.6.8 Flood protected land

Development Standards

- a) All development shall be considered in accordance with the Bathurst Regional LEP 2014.

DCP Map No. 32C - Kelso Industrial Area

- a) New building lots protected by the levee shall have a finished ground level not less than either the 1% AEP Flood Level (as identified by the 1987 Flood Study report), or the 2% AEP Flood Level (as determined by the Computer Based Floodplain Model), whichever is the greater.
- b) The floor level of any building shall be above the ground level specified above.

9.6.9 Development of lands affected by a natural watercourse

Development Standards

- a) Council may only grant consent to development if it is satisfied that the proposed development will not increase the flood hazard rating or likely flood damage to any property.

- b) Council may only grant consent to development if it is satisfied that the development is not within:
 - i) the high hazard flood area, or
 - ii) the low hazard floodway.
- c) The floor level of any habitable structure is to be 0.5 metres above the designated flood.
- d) The development must not increase the rate of storm water run-off into the watercourse.

9.6.10 Flood mitigation works

Flood mitigation works do not need to comply with the standards outlined in this Plan provided that:

- a) The works are identified in the *Bathurst Floodplain Management Plan as amended*, the *Sofala Floodplain Risk Management Study 2007* or the *Georges Plains Floodplain Risk Management Study 2007*.
- b) The works have fulfilled all the criteria established in the *Bathurst Floodplain Management Plan as amended*, the *Sofala Floodplain Risk Management Study 2007* or the *Georges Plains Floodplain Risk Management Study 2007*.
- c) The works comprise the adopted actions to implement the *Bathurst Floodplain Management Plan as amended*, the *Sofala Floodplain Risk Management Study 2007* or the *Georges Plains Floodplain Risk Management Study 2007*.

Notwithstanding that the works do not need to comply with the standards in this section, an approval from the NSW Office of Water may also be required.

9.6.11 Development Application requirements

A Development Application lodged for development within the designated flood is to be accompanied by:

- a) A report from an accredited Consulting Engineer detailing any adverse effects of the proposed development on flood hazard rating and potential flood damage to the subject property and any other property. For land within the Computer Based Flood Model Study, such report can be undertaken by Council at full cost to the developer.
- b) An evacuation plan for the development accompanied by evidence that the local division of the State Emergency Service has been consulted in the formulation of the plan.
- c) Existing ground levels of the subject site certified by a registered surveyor.
- d) Flood levels, where available. Where Council holds records for flood levels, they can be obtained from Council at full cost to the developer.

9.6.12 Matters for consideration

Development consent must not be granted to development on land to which this section applies unless the consent authority has considered the matters outlined in Clause 5.21 of the LEP and is satisfied that the development:

- a) is compatible with the flood hazard of the land, and
- b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- c) incorporates appropriate measures to manage risk to life from flood, and
- d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- f) No residential, commercial or industrial allotments are to be located at a level lower than the 1% Annual Exceedance Probability (AEP) flood level plus a freeboard of 500mm (i.e. within the 'flood planning area'). Pedestrian and cycle pathways and open space may extend within the 1% AEP flood level, provided that the safe access criteria contained in the NSW Floodplain Manual are met.

9.6.13 Submission requirements

- a) Where relevant, a comprehensive flood analysis prepared by appropriate person, incorporating:
 - i. a survey of the main watercourse;
 - ii. a survey of the site; and
 - iii. a detailed flood and drainage investigation which establishes the estimated 1% AEP (100 year ARI) flood level.
 - iv. the impact on flood levels, threat to life and accessibility from a public road.
- b) A contour survey plan prepared by a registered surveyor showing:
 - i. Ground levels;
 - ii. Location of existing and proposed buildings, including the finished floor level relative to the AHD.

is to be submitted with any development application on land identified as fully or partially flood affected. The levels on the survey are required to be verified during construction by a survey certificate.
- c) The applicant shall be required to demonstrate to the satisfaction of Council (on the basis of a qualified consultant report) that:
 - i. The development will not increase the flood hazard or risk to other properties;
 - ii. The structure of the proposed building works shall be adequate to deal with flooding situations;
 - iii. The proposed building materials are suitable;
 - iv. The buildings are sited in the optimum position to avoid flood waters and allow safe flood access for evacuation;

- v. The proposed redevelopment will not expose any resident to unacceptable levels of risk or any property to unreasonable damage; and
- vi. Compliance of any existing buildings with the ABCB Standard: Construction of buildings in flood hazard areas (2019) and the accompanying handbook developed by the Australian Building Codes Board (2012).

9.7 BUSHFIRE PRONE LAND

9.7.1 Land to which this Section applies

This section applies to all land identified wholly or partly as Bushfire Prone on the Bushfire Prone Land Map held in the offices of Council.

9.7.2 Objectives

- a) To minimise the risk to property and the community from bushfire.
- b) To minimise the impact of fire protection measures on the region's biodiversity.
- c) To ensure bushfire protection is afforded to all new allotments and to minimise the impact of bushfires.
- d) To ensure bushfire protection can be afforded to existing settlement areas in a manner that does not limit future growth.

9.7.3 Development standards

- a) All development is to comply with the provisions of the Rural Fire Service's *Planning for Bushfire Protection*. This document is available at www.rfs.nsw.gov.au
- b) The following provides a summary of the information required to be lodged with applications for development on bush fire prone lands within the Bathurst region.

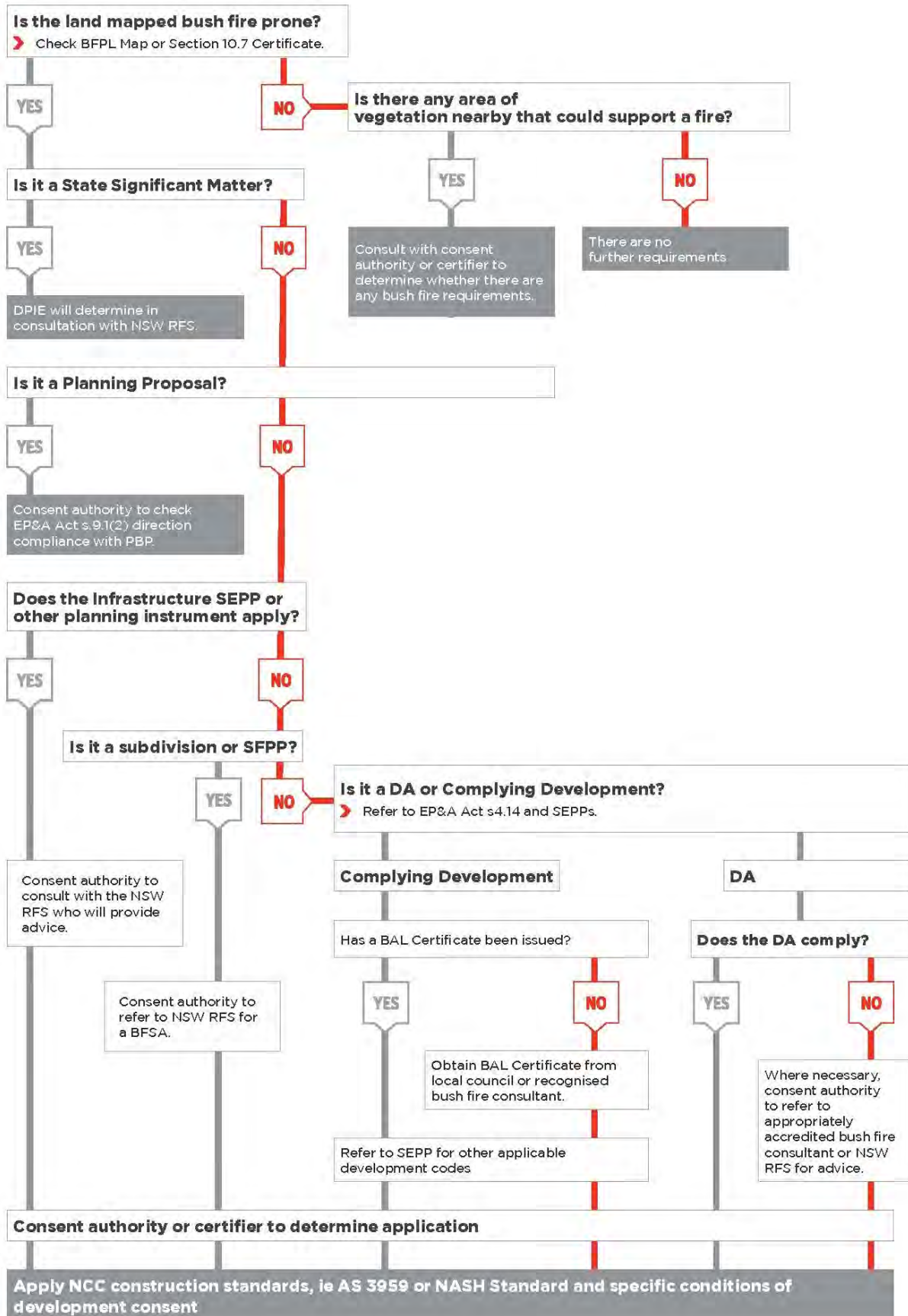
Note: For the Bathurst region, the FDI rating is FDI 80.

Development Type	Information required to be lodged at Development Application Stage
<p><u>Integrated Development</u> as identified by Section 100B of the Rural Fires Act, and specifically:</p> <p>(1) A subdivision of bushfire prone land that could lawfully be used for residential or rural residential purposes, or</p> <p>Development of bushfire prone land for a special fire protection purpose. The specific development types which are considered as SFPP development are listed within the Rural Fires Act 1997. The Rural Fires Regulation 2013 also details specific development types which are either excluded from the requirement for a Bush Fire Safety Authority or are considered as additional Special Fire Protection Purpose developments for which a Bush Fire Safety Authority is required.</p>	<p>A Bushfire Assessment Report that meets the requirements of the current version of <i>Planning for Bushfire Protection</i>.</p> <p>Development Applications for integrated development will be referred to the Rural Fire Service to issue a Bush Fire Safety Authority. Any requirements of the Bush Fire Safety Authority will be incorporated into Council's assessment.</p>

Development Type	Information required to be lodged at Development Application Stage
<p><u>Infill development</u> New dwellings and additions to dwellings. Development that does not comply with the current version of <i>Planning for Bushfire Guidelines</i> will be referred to the NSW Rural Fire Service. Refer to the current version of <i>Planning for Bushfire Protection Guidelines</i> and Council's guidelines for new dwellings on bushfire prone land.</p>	<p>(1) A Bushfire Assessment using the NSW RFS Single Dwelling Application Kit that meets the requirements of the current version of <i>Planning for Bushfire Protection</i>. The Single Dwelling Application Kit, or specific bushfire report is to address the following matters at a minimum:</p> <ul style="list-style-type: none"> a. A classification of vegetation on and surrounding the property (out to a distance of at least 140 metres from the proposed location of the dwelling) in accordance with the system described in the current version of <i>Planning for Bushfire Protection</i>. b. An assessment of the slope of the land on and surrounding the property in relation to the proposed location of the dwelling (out to a distance of at least 100 metres from the proposed location of the dwelling) in accordance with the system described in the current version of <i>Planning for Bushfire Protection</i> c. Identification of any significant environmental features on the property (eg watercourses, steep land). d. Identification of any threatened species, population or ecological community under the Threatened Species Conservation Act, 1995. e. An assessment of the likely impact of clearing that may be required to establish the Asset Protection Zones. f. An assessment of the quality of the access routes from the proposed dwelling to the property boundary.

9.7.4 Assessment Process for developments in bush fire prone areas

The below flowchart outlines the process that applies to developments in bush fire prone areas.



(Source: NSW Rural Fire Service, Figure 2.4, Planning for Bush Fire Protection 2019)

9.8 FLORA AND FAUNA SURVEYS

9.8.1 Objectives

- a) To establish minimum scientifically accepted standards for the quality, collection and reporting of biodiversity data.
- b) To promote planning decisions that reflect and incorporate the findings and recommendations of scientifically based flora and fauna surveys.
- c) To minimise the impact from development on the Region's biodiversity.
- d) To ensure compliance with the Office of Environment and Heritage's (OEH's) Threatened Species Assessment Guidelines.

9.8.2 What is a flora and fauna survey?

A flora and fauna survey is an ecological study of a specific area of land that:

- a) Documents the components of biodiversity confirmed to be present within the study area.
- b) Documents the components of biodiversity not confirmed, but likely to be present within the study area.
- c) Assesses the extent and nature of likely impacts of planning, land management or development proposals on the components of biodiversity referred to above, and specifically, any likely impacts on:
 - i) matters of national environmental significance;
 - ii) matters of state significance;
 - iii) matters of regional significance;
 - iv) matters of local significance.
- d) Makes recommendations as to how any planning, land management or development proposals relating to the study area and /or subject site should be dealt with or modified so as to avoid unacceptable impacts on biodiversity.

Components of biodiversity include species, habitats, ecological communities, genes, ecosystems and ecological processes.

9.8.3 When is a flora and fauna survey required?

A flora and fauna survey is to be undertaken prior to the lodgement of a Development Application where the following circumstances apply:

- a) the proposed development is likely to have an impact on matters of National environmental significance under the (Commonwealth) Environment Protection and Biodiversity Conservation Act 1999; or
- b) the proposed development is likely to have an impact on threatened species, populations or ecological communities listed under the Threatened Species Conservation Act 1995 or Part 7A of the Fisheries Management Act 1994, or their habitats; or

- c) the Council requests the applicant to provide supporting information to enable a determination as to whether the proposed development will have impacts referred to above; or
- d) the proposed development involves clearing of native vegetation, including wetlands and riparian vegetation; or
- e) the proposed development involves clearing of native vegetation for bushfire hazard reduction purposes; or
- f) ecological assessment of the proposed development is required under State Environmental Planning Policy No. 44 - Koala Habitat Protection; or
- g) a proposal may affect, either directly or indirectly, certain vegetation or habitat communities subject to special planning controls, including coastal wetlands, urban bushland, littoral rainforest and koala habitat.

The flora and fauna survey may be incorporated in the statement of environmental effects, biodiversity assessment, species impact statement or environmental impact statement accompanying the Development Application.

9.8.4 Minimum requirements of a flora and fauna survey

Development Standards

- a) A Flora and Fauna Survey must be prepared in accordance with industry best practice and in particular (where appropriate) in accordance with the following guidelines:
 - i) Bathurst Regional Council's Guidelines for Flora and Fauna Assessments.
 - ii) OEH's Threatened Species Assessment Guidelines.
 - iii) SEPP (Koala Habitat Protection) 2021.
- b) The study area is to include all of the site area the subject of the Development Application. It is also to include land beyond the site where this is necessary to assess off-site impacts, the extent of any adjoining habitat or population of threatened species or the role of the site as a habitat corridor.
- c) The survey must include as a minimum the following key tasks:
 - i) Research of known information and data prior to the on-site survey (e.g. Council's Threatened Species Database).
 - ii) Detailed survey design.
 - iii) Completion of an on-site survey and associated data collection.
 - iv) Analysis and interpretation of data.
 - v) Report preparation and recommendations.
- d) A digital copy of the completed Flora and Fauna Survey is to be lodged with the Development Application.

9.8.5 Conditions of consent

- a) When Flora or Fauna habitat is identified through a report, a specific condition of consent will be imposed relating to the management, protection, or otherwise of the area or site.

9.9 SUSTAINABLE BUILDING DESIGN AND ENERGY EFFICIENCY

9.9.1 Objectives

- a) To encourage environmentally sustainable building design and energy efficient housing opportunities.
- b) To encourage planning for climate change and reductions in CO₂ emissions.

9.9.2 Development standards

- a) All new residential development is to comply with BASIX requirements as required by the NSW Department of Planning and Infrastructure, where applicable.
- b) All new commercial development is to comply with Section J – Energy Efficiency of the National Construction Code.
- c) If in the opinion of Council the proposed development should address sustainable building design principles, the statement of environmental effects lodged with Development Applications for buildings is to include a section which addresses how the sustainable building design principles (outlined in section 9.8.3 below) have been incorporated into the development.

9.9.3 Sustainable building design principles

The construction of buildings using good design principles can save energy, water and money, while creating a more enjoyable and comfortable place to live and work. The following design principles encourage sustainable building design.

Council will give consideration to the following principles in the assessment of development applications.

Solar Passive Design

Site Analysis

- a) A solar site analysis should be used to site buildings to achieve maximum solar access in winter. Site analysis should consider:
 - i) Site dimensions.
 - ii) True north point.
 - iii) Spot levels or contours.
 - iv) Shadows cast by trees and surrounding structures.

Building Orientation

- a) Building orientation should seek to maximise winter solar access and minimise summer heat, in particular:

- i) The long axis of the building should face up to 30 degrees east and 20 degrees west of true north.
- ii) Living spaces should face north, sleeping areas to the east or south and utility areas to the west and south.

Passive Solar Access

- a) Solar access should be maximised through the consideration of the following matters in the design process:
 - i) Existing winter shadows of trees/structures to the north, NE and NW of the site.
 - ii) Possible future developments to the north, NE and NW of the site.
 - iii) Appropriately placed windows, shading devices and roof overhangs.
 - iv) Pergolas should face north.
 - v) Use of sun porches or greenhouses.
- b) Solar access to medium density housing developments should be enhanced through:
 - i) Increased spacing between buildings.
 - ii) High level windows to the north in the case of attached dwellings.
 - iii) The use of skylights.

Shading Devices and Windows

- a) Main windows should be shaded in summer between 9am and 4pm.
- b) Shading elements should be integrated into the overall elevation design.
- c) Where winter solar access is not optimum, double-glazing or high performance glass should be used.
- d) Horizontal shading devices (including eaves, verandahs, pergolas, awnings and external horizontal blinds) allow low winter sun into the window whilst providing shade from high summer sun.
- e) Minimise the size of east and west facing windows due to the hot, low summer sun, or provide suitable shading or other solar control which avoids summer overheating. External vertical shading devices include vertical blinds, blade walls and thick vegetation.

Insulation

- a) Insulation should be incorporated into buildings to moderate temperature swings in both summer and winter.
- b) Insulation options include:

- i) Bulk insulation: important for ceilings, walls and floors and includes insulation batts of fiberglass, sheep wool, cellulose etc. and straw bale and rammed earth construction.
 - ii) Reflective insulation: effective particularly in summer and includes reflective foil laminate.
 - iii) Insulation to windows: including double glazing, heavy curtains, and insulated panels.
- c) Insulate walls between living areas and garages.

Maximise ventilation in summer

- a) Place windows to allow for cross ventilation. Windows to the south are good for cross-ventilation however their size is best restricted.
- b) Fans, roof vents and high level windows should be installed.
- c) Consider evaporative cooling and/or wind stacks.
- d) Windows should be lockable in a partly open position.
- e) Exhaust fans to wet areas should be ducted outside.
- f) For medium density housing:
 - i) Ventilation should be considered early in the design stage.
 - ii) Consider prevailing breezes in relation to building orientation, window design and internal circulation as well as adjoining buildings.
 - iii) Consider spacing between buildings.
 - iv) Provide security screen doors at unit entries and windows.

Minimise air leakage

Infiltration is the filtering of cold or warm air through gaps in the construction of a dwelling. It is especially important to minimise draughts in winter.

- a) Consider air locks at entries and minimise air gaps.
- b) For medium density housing:
 - i) Incorporate door and window seals.
 - ii) Provide self-closing doors at unit entries at the main entry.
 - iii) Provide built in shutters to exhaust fans in wet areas.

Landscaping

- a) Tree species and height should be chosen and placed to maximise:
 - i) solar access in winter (to windows, solar collectors, drying areas etc.),
 - ii) shading in summer (to the building and to outdoor recreation areas), and

- iii) solar access to neighbouring properties to the south, south-east and south-west.
- b) Evergreen trees are good shade trees to the east and west (especially thicker species) and good to the north if low enough to allow winter solar access.

Note: most Australian native trees are evergreen which usually require less maintenance.
- c) Use internal courtyards (with landscaping and/or water elements). Consider using a porous paving to increase the infiltration of rainfall and irrigation.
- d) Include deciduous vines on pergolas to the north.
- e) Water elements and rainforest gardens assist in cooling the surrounding air.
- f) Thick shrubs can protect against prevailing winter winds or channel summer breezes.
- g) Mulch garden beds to reduce watering needs.

Colours

- a) Light coloured surfaces should be used internally and externally.

Notes:

The advantages of reflecting unwanted heat gain in summer usually override the advantages of absorbing heat with dark colours in winter.

Light colours reflect heat around a room in winter whilst simultaneously providing higher levels of natural light.

Take note of the type of paints used to reduce the use of chemicals in the living areas.

Lighting

- a) Maximise the use of natural lighting.
- b) Design lighting fixtures to suit the purpose of specific rooms (e.g. task or effect lighting in study, general spread of lighting in the family room).
- c) Provide separate switches for special purpose lights.
- d) Incorporate energy-efficient lamps (light emitting diode (LED) and compact fluorescent lighting (CFL)), fittings (reflectors) and switches (dimmers, automatic, timed and sensor operated).
- e) Locate switches at exits to rooms/lobbies etc. to encourage switching off.
- f) Incorporate dimmers, motion detectors, and automatic turn off switches where appropriate.
- g) Take note of what is appropriate lighting type (halogen versus CFL) for each area to reduce energy requirements.
- h) Install exterior lighting only as needed for security and accessibility needs to reduce energy requirements.

- i) Install skylights to increase natural light and reduce lighting needs.
- j) For medium density housing:
 - i) Light switches in common areas are to be time switched.
 - ii) Incorporate fittings with high efficiency reflectors suitable for compact fluorescent lamps and fluorescent tubes.
 - iii) Motion detectors are to be used for unit entries, lobbies and outdoor security.
 - iv) Provide automatic turn-off or sunset timed switches for outdoor purposes.

Water Saving

- a) Fit water efficient shower heads (at least 4 Star WELS rated).
- b) Install appropriate taps with aerators to reduce water needs. Mixer taps in showers can reduce the potential for scalding and save large quantities of hot water. Single lever flick mixer models of mixer taps over basins and sinks can waste hot water because they tend to be left in the middle position. Mixer taps with separate controls for hot and cold water are preferable in these locations.
- c) Install water efficient toilets (at least 4 Star WELS rated).
- d) Install water efficient washing machines (at least 4 Star WELS rated).

Rainwater Tanks

- a) Rainwater tanks may be connected to individual pipework to supply the toilet and/or washing machine and outside taps for garden irrigation.
- b) Any plumbing works must be undertaken by a licensed plumber in accordance with AS/NZS3500.
- c) All plumbing works connected to internal systems are subject to inspection by a Council Officer.
- d) All external taps supplied by the rainwater tank must be clearly labelled "not for drinking".
- e) Top-up from the reticulated supply will be limited to a trickle top up system which has a maximum flow rate of 2 litres per minute.

Grey Water Reuse

- a) Grey water diversion does not require Council approval if the requirements of the *Plumbing code of Australia* and certain performance criteria are satisfied.
- b) Grey water treatment systems can receive an 'approval to operate' subject to inspection by Council Officers.
- c) All grey water use must be done in accordance with Council's *Greywater Reuse (Residential Households) Policy*.

Renewable Energy and Energy Efficient Systems

Electricity accounts for around 50% of household energy use and around 80% of household greenhouse gas emissions because most electricity comes from non-renewable sources.

Renewable sources include water, wind and solar, with the latter two types available to be installed on most households.

Photovoltaic Cells (PV Cells or Solar Modules)

- a) The installation of Solar Modules require approval from Council unless exempt under any relevant SEPP or Council's LEP.

Notes:

Siting, angle and location are important and therefore expertise should be sought through accredited manufacturers and installers.

Wind Turbines

- a) The erection of wind turbines may require approval from Council and may not be suitable for some land zones.

Notes:

There are several types of wind generators available. The most common type is the 'propeller' type on the horizontal plane, though new quieter designs that can take advantage of turbulent wind around buildings have the turbine on the vertical or upright plane.

Most turbines are set up as a stand-alone system and connected to a battery bank. Domestic systems range in size from 500W to 5kW but may be as large as 10-20kW.

It is important to take into account the surrounding infrastructure and vegetation, the height of the unit and the household requirements when purchasing a wind turbine.

Due to the varying nature of wind across building sites, it is important to consult with experienced installers and manufacturers before choosing a particular turbine for your location.

Hot Water Systems**Solar Hot Water Systems**

- a) Installation of solar hot water systems require approval from Council unless they are exempt under any relevant SEPP or Council's LEP.

Notes:

Heating water accounts for 25% of household energy use and around 20% of household greenhouse gas emissions. Using solar systems to boost your water heating can dramatically reduce household reliance on fossil fuels and provide up to 90% of hot water needs.

The two main types are flat-plate solar collectors and evacuated tube solar collectors.

Flat-plate systems can either have the water tank on the roof or a separate tank on the ground. These systems are most efficient in summer and on clear days.

Evacuated tube systems are ideal for cooler climates, and when maintained properly, will outlast the storage tank.

Siting, angle and location are important and therefore expertise should be sought through accredited manufacturers and installers.

Solar hot water systems are often operated in conjunction with gas or electric instant hot water systems to ensure that the house has continual supply.

Heat Pump Hot Water Systems

Heat pump systems operate by extracting the heat from the surrounding environment to heat water. They work in the opposite way as a fridge does to cool items.

Natural Gas Water Systems

Natural Gas systems can be either stored or instant and are more efficient than electric systems.

Natural Gas systems can reheat water more quickly than electric allowing for smaller tanks, making it easier for internal installation.

Electric Storage Hot Water Systems

These systems use an element inside a tank much like a kettle. They are the most inefficient system to use and are responsible for the most greenhouse gas emissions and are therefore not recommended.

Smaller units usually operate all the time and are expensive to run. Larger units usually run at off peak times but are overheated to maintain the heat during the day.

These systems are cheaper to buy but are more expensive to run.

Waste

The construction of dwellings results in a great deal of waste produced during the construction stage. The design of smaller houses and more effective use of resources will help to reduce the creation of waste. Talk to your designer and builder about maximising the use of materials, reducing building waste (which you pay for) and designing for end of life and reuse of building materials.

9.10 VEGETATION MANAGEMENT AND BIODIVERSITY

9.10.1 Objectives

- a) To protect and enhance vegetation, habitat for native fauna and biodiversity within the Bathurst Region.
- b) To protect trees that are heritage items, located on the site of a heritage item or that are within heritage conservation areas.
- c) To protect, maintain and improve the diversity and stability of landscapes and waterways, minimise urban heat and other climate change impacts, reduce stormwater runoff and improve the visual amenity of streetscapes and landscapes contributing to community well-being.

9.10.2 Land to which this Section applies

This section applies as follows:

- a) To the clearing of vegetation in all areas that is proposed in association with a development application.
- b) To the clearing of specified vegetation in non-rural areas being land in zones E2 Environmental Conservation, E4 Environmental Living, SP2 Infrastructure, SP3 Tourist, RE1 Public Recreation, R5 Large Lot Residential, RU5 Village & W2 Recreational Waterways.

- c) To the clearing of specified vegetation that is a heritage item, or is within the curtilage of a heritage item, or is within a heritage conservation area.

This section does not apply to the clearing of exempt vegetation as identified in subsection 9.10.5.

9.10.3 What approvals are required under this Section?

- a) If clearing is in association with a development application or in preparation for a development application, development consent is required from Council.
- b) If clearing specified vegetation in non-rural areas (see section 9.10.5(a)), either an approval from the NSW Native Vegetation Panel or a clearing permit from Council may be required.
- c) If clearing specified vegetation that is a heritage item, or is within the curtilage of a heritage item or is within a heritage conservation area (see section 9.10.5(b)):
- i) development consent for clearing of a heritage item or clearing within the curtilage of a heritage item may be required from Council; or
 - ii) a clearing permit for clearing within a heritage conservation area may be required from Council.

Refer to Council's Tree Preservation and Management Policy.

Notes:

1. Clause 9.10.5 of this DCP defines what is "specified vegetation" for the purposes of this DCP Chapter.
2. Clause 9.10.6 outlines activities that are exempt from requiring development consent or a clearing permit.
3. The clearing of native vegetation in non-rural areas (i.e. all zones except RU1 Primary Production, RU2 Rural Landscapes and RU4 Primary Production Small Lots) above the Biodiversity Offsets Scheme area clearing threshold or identified on the Biodiversity Values Map requires approval of the Native Vegetation Panel. For more information: <https://www.planning.nsw.gov.au/Policy-and-Legislation/Environment-and-Heritage/Vegetation-SEPP>
4. The clearing of native vegetation in rural areas (zones RU1 Primary Production, RU2 Rural Landscapes and RU4 Primary Production Small Lots), where not associated with a development application, is regulated under the NSW Local Land Services Act 2013. For more information: <https://www.lls.nsw.gov.au/sustainable-land-management/land-management>
5. The clearing of vegetation exempted or not otherwise specified by this DCP or that does not require approval of the Native Vegetation Panel is permitted without development consent or a clearing permit.
6. Notwithstanding any element of this section, if the clearing of vegetation will cause damage to habitat of a threatened species or ecological community or cause harm to an animal that is threatened, part of a threatened ecological community or a protected plant or animal, a Biodiversity Conservation Licence is required under the Biodiversity Conservation Act 2016. However, a

Biodiversity Conservation Licence is not required if a clearing permit or development consent is issued by Council, an approval is granted from the Native Vegetation Panel or the clearing is otherwise authorised under other legislation, such as the Local Land Services Act 2013 (refer to Part 2 of Biodiversity Conservation Act 2016).

7. This section does not constitute legal advice as to responsibilities under the NSW Local Land Services Act 2013 or NSW Biodiversity Conservation Act 2016.
8. Native vegetation has the same meaning in section 60B of NSW Local Land Services Act 2013

9.10.4 Explanation of terms

- a) What is clearing?

Clearing means any one or more of the following:

- i) Cutting down, felling, thinning, logging or removing vegetation;
- ii) Killing, destroying, poisoning, ring-barking, uprooting or burning vegetation;
- iii) Severing, topping or lopping branches, limbs, stems or trunks of vegetation;
- iv) Substantially damaging or injuring vegetation in any other way (see definition for injury).

- b) What is injury

Injury means damage to a tree or vegetation and includes:

- i) Lopping and topping;
- ii) Poisoning, including applying herbicides and other toxic chemicals to a tree or spilling (including washing off or directing water contaminated by) oil, petroleum, paint, cement, mortar and the like onto the root zone;
- iii) Cutting, snapping off and tearing of branches and roots that is not carried out in accordance with accepted arboricultural practices;
- iv) Ring-barking, scarring the bark when operating machinery (e.g., lawn mowers), fixing objects (e.g., signs) by nails, staples or wire, using tree climbing spikes in healthy trees marked for retention (except for access to an injured tree worker) or fastening materials that circle and significantly restrict the normal vascular function of the trunk or branches;
- v) Damaging a tree's root zone by compaction or excavation, asphyxiation (including unauthorised filling or stockpiling of materials);
- vi) Under scrubbing, unless carried out by hand tools, such as brush cutters and the like.

9.10.5 Specified Vegetation

- a) What is specified vegetation in non-rural areas (clause 9.10.2(b) of this DCP chapter)?

- i) All native trees and native vegetation on land in zone E2 Environmental Conservation, E4 Environmental Living, SP2 Infrastructure, SP3 Tourist, RE1 Public Recreation, R5 Large Lot Residential, RU5 Village & W2 Recreational Waterways under the Bathurst Regional Council Local Environmental Plan 2014.
- ii) Native trees in non-rural areas which are verified and mapped by Council as supporting a threatened ecological community (Refer to DCP Map No. 38 – Urban Grassy Box Woodland).
- iii) Vegetation within areas identified on a DCP Map as an environmental protection area.

The above specified vegetation is declared to be vegetation to which Part 3 of the Vegetation SEPP applies.

- b) What is specified vegetation for heritage conservation purposes (clause 9.10.2(c) of this DCP Chapter)?
 - i) Trees and other vegetation that are a heritage item (ie individually listed) or within the curtilage of a Heritage Item;
 - ii) Trees located within the Bathurst, Kelso or West Bathurst heritage conservation areas that are greater than 9 metres tall.

Note: Trees within a Heritage Conservation Area and within Zone RU5 Village are to use the approval pathway described in 9.10.2 (a) or (b).

9.10.6 What is the Biodiversity Offsets Scheme (BOS) threshold

The Biodiversity Offsets Scheme Threshold is a test used to determine when is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method (the BAM) to assess the impacts of a proposal. The Biodiversity Conservation Regulation 2017 sets out threshold levels for when the Biodiversity Offsets Scheme will be triggered. The threshold has two elements:

- i) whether the amount of native vegetation being cleared exceeds a threshold area set out in the table below

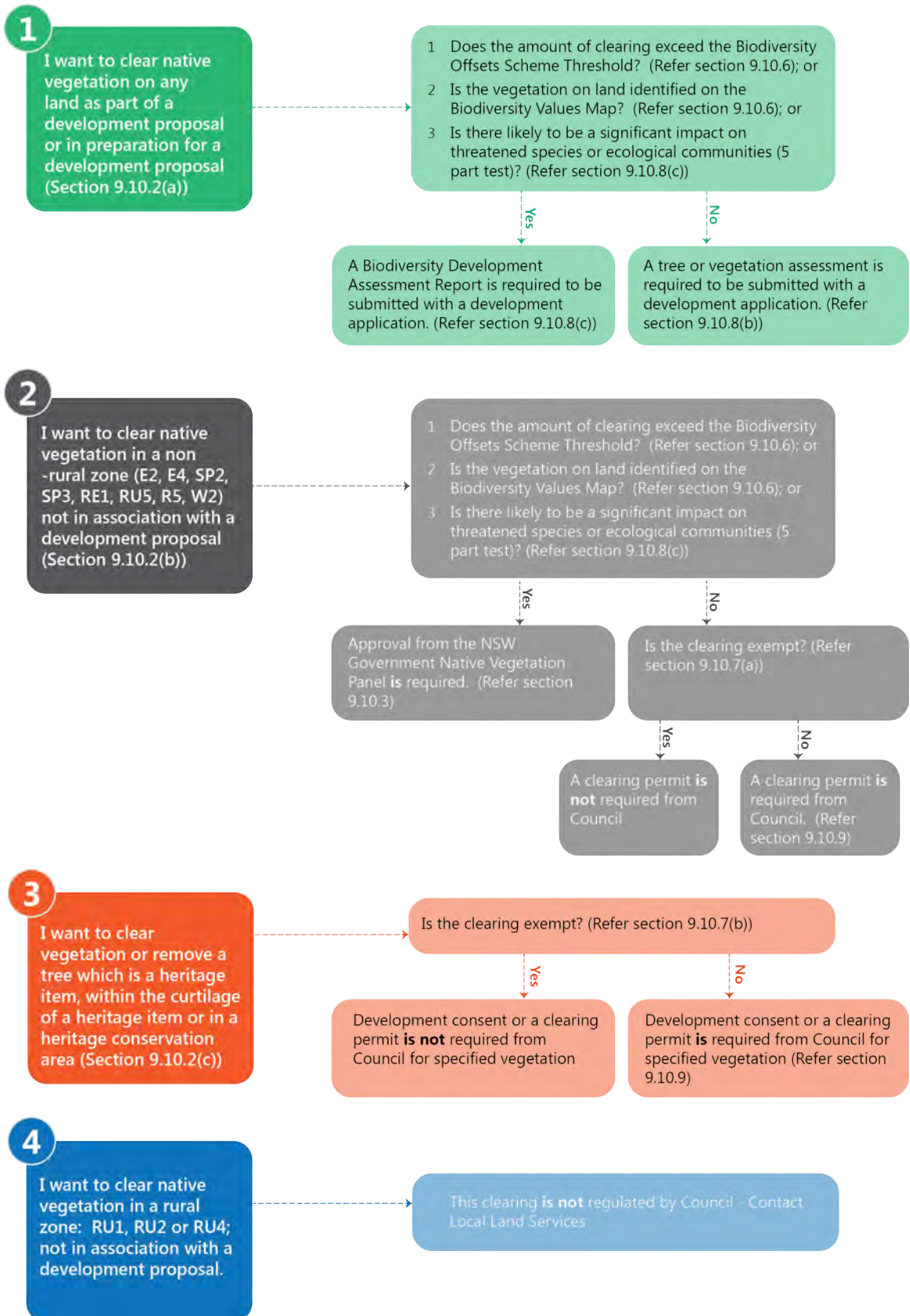
Minimum lot size associated with the property	Threshold for clearing, above which the BOS applies
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1000 ha or more	2 ha or more

- ii) whether the clearing of native vegetation occurs on an area mapped on the Biodiversity Values map published under clause 7.3 of the Biodiversity Conservation Regulation 2017

Further information about the Biodiversity Offsets Scheme can be accessed from: <https://www.environment.nsw.gov.au/biodiversity/entryrequirements.htm>

The Biodiversity Values map can be accessed from:

<https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>



9.10.7 Exemptions:

- a) For the purposes of clause 9.10.3 (b) of this DCP, the following activities are exempt from requiring a permit from Council:
- i) Clearing of State and regional priority weeds under the Biosecurity Act 2015.
 - ii) Clearing of vegetation that Council is satisfied is dead or dying and is not required as the habitat of native animals.
 - iii) Clearing of vegetation that Council is satisfied is a risk to human life or property
 - iv) Any works to a specified tree carried out by, or on behalf of, Bathurst Regional Council.
 - v) Clearing on the site of the Bathurst Regional Airport.
 - vi) Clearing that is authorised under other legislation (eg. Electricity Supply Act 1995, Rural Fires Act 1997, Local Land Services Act 2003)
 - vii) Clearing within 3m of a lawful dwelling
 - viii) Clearing that is in accordance with a property vegetation plan or other conservation agreement
 - ix) Pruning that does not exceed 10% of the canopy every three years and complies with Australian Standard 4373 – Pruning of Amenity Trees.
- b) For the purposes of clause 9.10.3 (a) and (c) of this DCP, (in relation to vegetation that is a heritage item or is within the curtilage of a heritage item or in a heritage conservation area), the following activities are exempt from requiring development consent or a clearing permit from Council:

- i) Clearing of any of the following species within a heritage conservation area (excluding a tree that is a heritage item or within the curtilage of a heritage item):

Exempt tree list	
Botanical name	Common name
Eucalyptus nicholii	Narrow-leaved Black Peppermint
Acacia spp.	Wattles
Cupressocyparis leylandii	Leylandii Pines (all varieties)
Salix spp.	Willow
Ligustrum lucidum	Privet
Robinia pseudoacacia	Robinia
Gleditsia triacanthus	Locust
Populus spp.	Poplars

- ii) Clearing of trees less than nine (9) metres in height; and have a trunk circumference of less than one (1) metre when measured at a height of one

(1) metres from the ground; and has a branch spread of fifteen (15) metres or less.

- iii) Clearing that Council agrees is of a minor nature or is required for the maintenance of the heritage item or heritage conservation area and that would not adversely affect the heritage item or heritage conservation area, is exempt from requiring development consent (in accordance with clause 5.10 of the Bathurst Regional Local Environmental Plan 2014).
- iv) Any works to a specified tree carried out by, or on behalf of, Bathurst Regional Council.
- v) Clearing of State and regional priority weeds under the Biosecurity Act 2015.
- vi) Clearing of vegetation that Council is satisfied is dead or dying and is not required as the habitat of native animals.
- vii) Clearing that is authorised under other legislation (eg. Electricity Supply Act 1995, Rural Fires Act 1997, Local Land Services Act 2013)
- viii) Any works to make safe a specified tree where there is an immediate threat of injury to persons or damage to property provided that contact has been made with Council's Authorised Officer and verbal approval has been provided, or to comply with a direction from an Emergency Services agency. Evidence must be provided by an Arborist at the earliest possible time following the elimination of the threat.

Note: This does not negate the need for an application to be submitted at the earliest opportunity upon the elimination of the threat of injury or damage.

- ix) Pruning that does not exceed 10% of the canopy every three years and complies with Australian Standard 4373 – Pruning of Amenity Trees.

c) Exclusions

The following vegetation is excluded from the exemptions outlined above:

- i) Any vegetation required to be retained as a condition of a development consent.
- ii) Any vegetation that is identified on Section 88B instruments under the Conveyancing Act 1919 as vegetation to be retained.
- iii) Any vegetation that is identified on a property vegetation plan or other conservation agreement as vegetation to be retained.
- iv) Any vegetation that is habitat for threatened species.
- v) Any vegetation within a designated buffer area on a DCP Map.

9.10.8 Development Standards

This subsection applies when a development application is required.

- a) A development application that includes the clearing of vegetation must be accompanied by a site plan showing the location of vegetation to be cleared. A survey of the property and the location of trees on the property may be required by Council. The site plan (preferably using an aerial photograph) must detail the following:
- i) The proposed development, including where all works and buildings are to be located.
 - ii) Existing buildings and other structures on the land.
 - iii) Any existing or proposed effluent disposal site.
 - iv) Extent of land proposed to be disturbed.
 - v) Extent and type of existing vegetation (including ground vegetation) and details of the vegetation proposed to be removed as part of the development.
 - vi) Location of bores within 250 metres of the site.
 - vii) Any other environmental constraints, as applicable.
- b) A Statement of Environmental Effects submitted with the development application must include a description of the vegetation to be cleared (type and condition of vegetation), photographs of the vegetation and a statement addressing the biodiversity impact of the proposed development. Council may require the submission of a report from a suitably qualified professional (e.g. ecologist) to provide evidence of the species of vegetation to be cleared and the condition of that vegetation.
- c) Where development on any land involves clearing of vegetation and:
- i) the extent of clearing exceeds the Biodiversity Offsets Scheme Threshold, or
 - ii) the vegetation to be cleared is identified on the Biodiversity Values Map, or
 - iii) the development is likely to have a significant impact on listed threatened species or threatened ecological community;
- a Biodiversity Development Assessment Report (prepared in accordance with the NSW Office of Environment and Heritage's Biodiversity Assessment Method) must be submitted with the development application.
- d) For developments that do not exceed the Biodiversity Offsets Scheme Threshold, applicants are to provide evidence that the BOS threshold is not exceeded. Applicants are also required to carry out a 'test of significance' to consider impacts on threatened species, ecological communities, and their habitats, as a result of the local development proposal. The NSW Office of Environment and Heritage's Threatened Species Test of Significance Guidelines can be found at: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Threatened-species/threatened-species-test-significance-guidelines-170634.pdf>

- e) In relation to clearing of a heritage item or clearing within the curtilage of a heritage item, a Statement of Heritage Impact may be required if, in the opinion of Council, the clearing is likely to have a significant impact on the heritage item or the heritage conservation area. Refer to Chapter 10 of this Plan.
- f) Consent must not be granted to any development including any building, subdivision or work on land identified as High or Moderate Biodiversity Sensitivity on DCP Map No. 31 - Biodiversity unless the consent authority has considered an environmental assessment that indicates how the development will achieve the following outcomes:
 - i) Protect biological diversity, native flora and fauna and their habitat.
 - ii) Protect the ecological processes necessary for ecosystem health.
 - iii) Encourage the recovery of threatened species, communities, populations and their habitats.

The assessment must consist of a written statement which explains how the proposed development achieves the required outcomes. In this regard it should include the following information, as a minimum.

Impact of development on biodiversity

This section should summarise how the proposed development will impact on existing biodiversity. This should include how the development might impact on:

- i) native terrestrial flora and fauna, their habitat, and their interrelationship with the environment,
- ii) native aquatic flora and fauna, their habitat, and their interrelationship with the environment, and
- iii) the physical and biological function of the ecosystem.

Note: Where the site plan demonstrates no disruption to existing vegetation or function of the ecosystem all that is required is a statement that the proposed development achieves the required outcome.

Proposed mitigation measures

Impacts may also come in other ways e.g. through additional fencing, removal of dead and fallen timber or domestic pets.

This section should include details of how biodiversity loss will be mitigated, e.g. proposed re-vegetation including maintenance details to ensure survival rate is maximised.

Summary

This section should summarise how the proposed development achieves the required outcomes to:

- i) Protect biological diversity, native flora and fauna and their habitat.

- ii) Protect the ecological processes necessary for ecosystem health.
- iii) Encourage the recovery of threatened species, communities, populations and their habitats.

9.10.9 Requirements for clearing permit applications

This subsection applies when a clearing permit application or an exempt tree notification form is required.

- a) A clearing permit application form must be lodged with Council to undertake clearing of specified vegetation, prior to undertaking any clearing, unless the clearing is exempt (see clause 9.10.7).
- b) Applications must be accompanied by a site plan showing the location of vegetation to be cleared. A survey of the property and the location of trees on the property may be required by Council. The site plan (preferably using an aerial photograph) must detail the following:
 - i) Existing buildings and other structures on the land
 - ii) Extent of land proposed to be disturbed.
 - iii) Extent and type of existing vegetation (including ground vegetation) and details of the vegetation proposed to be removed as part of the development.
 - iv) Any other environmental constraints, as applicable.
- c) Applications must be accompanied by a statement that describes the vegetation to be cleared (type and condition of vegetation), photographs of the vegetation and an assessment of the biodiversity impact of the proposed development. Council may require the submission of a report from a suitably qualified professional (e.g. ecologist) to provide evidence of the species of vegetation to be cleared and the condition of that vegetation.
- d) If, in the opinion of Council, the clearing, or other activity is likely to have a significant impact on threatened species or threatened ecological communities, Council may require the submission of a test of significance to be completed. The NSW Office of Environment and Heritage's Threatened Species Test of Significance Guidelines can be found at: <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Threatened-species/threatened-species-test-significance-guidelines-170634.pdf>
- e) In relation to the clearing of exempt trees (see clause 9.10.7 (b).), an exempt tree notification form must be lodged with Council prior to undertaking clearing.

It is the responsibility of the owner of the land to ensure that the vegetation proposed to be removed is the species identified in the exempt tree list. Evidence (such as the advice of a suitably qualified professional (e.g. ecologist)) is to be provided with the application along with photographs of the vegetation to be removed.

9.10.10 Assessment Criteria

Council may take into consideration any or all of the following criteria when assessing an application for clearing (being a clearing permit application, an exempt tree notification or a development application):

- a) Potential life of the tree - whether the tree is senescing or declining.
- b) Whether the tree is causing structural damage to a building, structure, pipe or sewer.

Note: A report may be required by a suitably qualified and experienced consultant where the damage is not visually evident.

- c) Whether the tree is severely stressed, diseased or is suffering insect damage and without the opportunity for mitigation.
- d) Whether the growth habit or mature size of a tree is undesirable in a given situation (e.g. power lines, root interference with service, infrastructure or building).
- e) Whether the tree shows poor form, shape and/or vigour typical to the species.
- f) Where the branches are dangerous and overhanging a building or an adjoining property. In this case, the assessing Council officer will determine the amount of pruning permitted to address any public nuisance issue.
- g) Whether the tree species is appropriate in terms of its proximity to dwellings, adjoining dwellings or other buildings.
- h) Whether the clearing or removal of the tree or other vegetation has the potential to directly or indirectly affect a threatened species, population, ecological community or their habitats, or other protected fauna/flora (e.g. whether the tree(s) involved are habitat trees for any threatened fauna species, or whether the tree(s) involved are part of an endangered population, endangered ecological community or is critical habitat for any threatened fauna species).
- i) Whether the tree species is of regional significance (i.e. identified regionally as a rare species due to heavily cleared or under-represented vegetation community).
- j) Whether the tree is of local significance and is considered relatively rare or has limited distribution or is a critical indigenous species.
- k) Whether the removal of the tree(s) will pose any adverse impact upon the amenity or scenic environmental quality of the locality.
- l) Whether the removal of the tree(s) is necessary as part of any bushfire hazard reduction work under the Rural Fires Act 1997.
- m) Whether the removal of the tree(s) will cause any potential adverse slope instability or geotechnical impacts upon the site or the locality.
- n) Whether the applicant has provided a medical certificate from a clinical immunologist/ allergy specialist which states that the pruning or removal of a tree is necessary for maintaining quality of life.

- o) Whether any previous condition of development consent required the retention of the tree(s).
- p) Whether the proposal involves the planting of replacement vegetation.

9.10.11 Reasons not considered as justification for clearing

These are common requests for tree removal/works which generally provide insufficient reason for a permit or approval to be issued:

- a) Shedding of flowers, leaves, bark, twigs, fruit, and sap causing nuisance.
- b) Animals (insect, bird, bat, possum etc.) that inhabit trees causing nuisance.
- c) To enhance amenity views.
- d) Damage to underground services (such as sewer lines, water services and the like), where there are alternatives to mitigate and retain the tree.
- e) Construction of fences.
- f) Minor heave (lifting) of paths, paving, fences and minor structures where mitigation is not appropriate.
- g) Tree does not suit the existing or proposed landscape.
- h) Unsubstantiated fear of tree failure.
- i) Tree removal for fire hazard reduction, where the property is not within a bushfire prone area as defined by the Rural Fire Service.
- j) Tree is considered to be too large or high.
- k) Pruning to reduce height.
- l) To increase solar access unless sufficient evidence is provided.
- m) To allow for a proposed development where alternative locations are available.