



PART I

ENVIRONMENTAL

DRAFT

2025

UPPER LACHLAN
DEVELOPMENT CONTROL PLAN



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I.1. | BIODIVERSITY

APPLICATION OF THIS PART

Part I.1 applies to all development that requires consent under Part 4 of the Environmental Planning and Assessment Act 1979 that has potential to impact biodiversity.

Part I.1 presents the requirements of Upper Lachlan Shire Council in the processing of Development Applications in accordance with biodiversity legislation applying in the Upper Lachlan Shire.

DEFINITIONS AND TERMS

Part I.1 uses a number of specific terms that are explained below:

Biodiversity Assessment Method is a consistent method for assessing certain impacts on threatened species and threatened ecological communities, and their habitats, and the impact on biodiversity values, where required under the Biodiversity Conservation Act 2016 or Local Land Services Act 2013.

Biodiversity Offset Scheme applies to certain development, land clearing and activities on land shown in the Biodiversity Values Map or an area of clearing that exceeds the Biodiversity Offset Scheme Threshold.

Biodiversity Offset Scheme (BOS) is defined by key elements listed in Section 6.2 of the Biodiversity Conservation Act 2016, which is used to determine whether development involves the clearing of native vegetation that exceeds the Biodiversity Offset Scheme Threshold.

Biodiversity Offsets Scheme Threshold (BOST) is a test for local development and vegetation clearing in NSW that determines when a proposal must be assessed under the Biodiversity Assessment Method (BAM) and trigger the BOS to offset biodiversity impacts. In general, the BOS is triggered when clearing related to development is proposed on land shown as high value biodiversity in the Biodiversity Values Map or an area of clearing that exceeds the Biodiversity Offset Scheme Threshold.

Clearing of Native Vegetation means any one or more of the following - burning, cutting down, destroying, felling, killing, poisoning, uprooting, ringbarking, thinning or otherwise removing native vegetation.

Native Vegetation is defined under the Local Land Services Act 2013 as any of the following types of plants native to NSW:

- a. Trees (including any sapling or shrub or any scrub).
- b. Understorey plants.
- c. Groundcover (being any type of herbaceous vegetation).
- d. Plants occurring in a wetland.

Section 60H of the Local Land Services Act 2013 stipulates native vegetation clearing is not applicable to a Development Application in the following circumstances:

- a. The land was cleared of native vegetation at 1 January 1990, or
- b. The land was lawfully cleared of native vegetation between 1 January 1990 and the commencement of Part 5A of the Local Land Services Act 2013 on 25 August 2017, or
- c. The land contains low conservation value grasslands, or
- d. The land contains native vegetation that was identified as regrowth in a property vegetation plan referred to in section 9 (2) (b) of the Native Vegetation Act 2003, or
- e. The land is of a kind prescribed by the regulations as category 1-exempt land.

Threatened Species means a critically endangered species, an endangered species or a vulnerable species listed in Schedule 1 of the Biodiversity Conservation Act 2016.

Threatened Ecological Community means a critically endangered ecological community, an endangered ecological community or a vulnerable ecological community listed in Schedule 2 of the Biodiversity Conservation Act 2016.

Threatening Process means a process that threatens, or that may threaten, the survival or evolutionary development of species or ecological communities.

1.1.1. Biodiversity Assessment Requirements for Development

OBJECTIVES

To outline the legislative requirements for development that has potential to impact biodiversity in the Upper Lachlan Shire.

STANDARDS

- a. Development involving clearing of native vegetation is required to assess whether the NSW Biodiversity Offset Scheme is triggered, as per the methodology in Table 1.
 - b. Development proposing to clear less than the Biodiversity Offset Scheme Threshold is to be supported by a Threatened Species Test of Significance, as per Section 7.3(l) of the Biodiversity Conservation Act 2016 to confirm no significant affect on threatened species.
 - c. Development proposing to clear 100% of the Biodiversity Offset Scheme Threshold (or more) is to be supported by a Biodiversity Development Assessment Report prepared by a suitably qualified professional.
 - d. Development that is likely to significantly affect threatened species or ecological communities according to the Test of Significance under Section 7.3 of the Biodiversity Conservation Act 2016 is to be supported by a Biodiversity Development Assessment Report prepared by a suitably qualified professional.
 - e. Development involving actions detailed in Clause 6.1 of the Biodiversity Conservation Regulation 2017 is to be supported by a Biodiversity Development Assessment Report prepared by a suitably qualified professional.
 - f. Development involving clearing of native vegetation within a declared area of outstanding biodiversity value is to be supported by a Biodiversity Development Assessment Report prepared by a suitably qualified professional.
 - g. Development involving clearing of native vegetation on land identified on the NSW Government Biodiversity Values Map is to be supported by a Biodiversity Development Assessment Report.
- Note: NSW Environment and Heritage website has guidance on matters relating to the administration of biodiversity issues.

Table 1. Biodiversity Offset Scheme Calculation as per Minimum Lot Size of Land *

Minimum lot size associated with the property	Biodiversity Offset Scheme Threshold (BOST)
Less than 1 hectare	Development proposing 0.25 hectares or more of native vegetation clearing.
1 hectare to less than 40 hectares	Development proposing 0.5 hectares or more of native vegetation clearing.
40 hectares to less than 1,000 hectares	Development proposing 1 hectare of native vegetation clearing.
1, 000 hectares or more	Development proposing 2 hectares or more of native vegetation clearing.

* The area clearing threshold varies according to the relevant minimum lot size at the proposal site (shown in the lot size maps made under local environment plans) or the actual lot size (where there is no minimum lot size provided for in the relevant local environmental plan). If there are multiple relevant minimum lot sizes, the smallest one applies. The area clearing threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots.

I.2. | FLOOD RISK MANAGEMENT

APPLICATION OF THIS PART

Part I.2 applies to any land in the Upper Lachlan Shire that has been identified as flood prone in any of the following documents:

- a. Upper Local Environmental Plan 2010.
- b. Upper Lachlan Floodplain Risk Management Study and Plan 2017.

Part I.2 also applies to other land in the Upper Lachlan Shire that is at or below the flood planning level.

DEFINITIONS AND TERMS

Part I.2 uses a number of specific terms that are explained below:

Annual Exceedance Probability (AEP) is the chance of a flood of a specific size occurring in any one year, expressed as a percentage. For example, a 1% AEP flood has a 1% or 1 in 100 chance of being reached or exceeded in any given year.

Australian Height Datum (AHD) is the common national surface level datum approximately corresponding to mean sea level.

Flood Hazard is the potential loss of life, injury and economic loss caused by a future flood event.

Flood Prone Land is land that is susceptible to flooding as per the Upper Lachlan Floodplain Risk Management Plan and Study.

Flood Planning Area is the area of land at or below the Flood Planning Level and thus subject to flood related development controls.

Flood Planning Level (FPL) is the level of the 1% AEP plus a safety freeboard, which is 500mm as adopted by Upper Lachlan Shire Council.

Floodplain Risk Management Plans (FRMP) are strategic documents to manage and reduce flood related risks within a floodplain.

Freeboard is the factor of safety typically used in relation to the setting of floor levels, levees and the like, and is usually expressed as a height above a flood planning level.

Habitable Floor Area is the living or working area, such as a lounge room, dining room, rumpus room, kitchen, bedroom, workroom or home office. In an industrial or commercial situation, an area used to store valuable possessions susceptible to flood damage in the event of a flood.

On Site Detention (OSD) - is a stormwater management system that is designed to temporarily store excess stormwater runoff on a property for controlled release in a manner that ensures it doesn't overwhelm the local drainage system, and may employ design features such as detention basins, water tanks, sumps and the like.

Probable Maximum Flood (PMF) is the largest flood that could conceivably occur at a particular location.

I.2.1. Flood Planning Requirements for Residential Development

OBJECTIVES

To ensure residential development on flood prone land does not have significant impact on flood behaviour, peoples safety, surrounding properties and structures and the natural environment.

STANDARDS

- a. Development on land that is identified in a Flood Planning Area is to be supported by a survey plan prepared by a registered surveyor showing the following detail:
 - i. Position of existing buildings and / or proposed buildings.
 - ii. Existing ground levels (AHD) in and around the perimeter of existing buildings.
 - iii. Existing levels of stormwater infrastructure in and around the site.
 - iv. Level of the 1% AEP.
 - v. Proposed floor levels relative to the 1% AEP.
- b. Developments on land that is identified in a Flood Planning Area is to comply with the Clauses 5.21 and 5.22 of the Upper Lachlan Local Environmental Plan 2010.
- c. Developments on land that is identified in a Flood Planning Area is to comply with the development controls outlined in Table 3 of the Upper Lachlan Floodplain Risk Management Study 2017.
- d. Development involving earthworks (including the importation of fill) on land identified in a Flood Planning Area that has the potential to reduce flood storage is to be supported by flood modelling prepared by a suitably qualified professional that demonstrates there will be no worsening of existing flood conditions.
- e. Development is to ensure the floor levels of all habitable floor areas are not less than the Flood Planning Level.
- f. Despite control e) above, alterations and additions to existing dwellings with floor levels below the Flood Planning Level are subject to the following requirements:
 - i. The alterations and additions do not increase the existing habitable floor area of the dwelling by more than 20m² or 10%, whichever is the greater.
 - ii. The alterations and additions comply with all provisions of the Upper Lachlan Development Control Plan 2025.
 - iii. Council has not previously granted consent to a Development Application that relied upon this standard in the Upper Lachlan Development Control Plan 2025.
- g. Development on land that is identified in a Flood Planning Area that is unsewered is design to comply with the following:
 - i. On-site sewage management systems are located above the identified 5% AEP (as a minimum) and located above the 1% AEP where this can achieved.
 - ii. On-site sewage management systems are designed to withstand flooding conditions, including avoidance of inundation, consideration of structural adequacy and measures to prevent flushing / leaking in flood events.

Note: NSW Natural Disaster Support website and Upper Lachlan Shire Council website has guidance on matters relating to the administration of flood events and planning.

I.2.2. Flood Planning Requirements for Commercial and Industrial Development

OBJECTIVES

To ensure commercial and industrial development on flood prone land does not have a significant impact on flood behaviour, peoples safety, surrounding properties, structures and the natural environment.

STANDARDS

- a. Development on land that is identified in a Flood Planning Area is to be supported by a survey plan prepared by a registered surveyor showing the following detail:
 - i. Position of existing buildings and / or proposed buildings.
 - ii. Existing ground levels (AHD) in and around the perimeter of existing buildings.
 - iii. Existing levels of stormwater infrastructure in and around the site.
 - iv. Level of the 1% AEP.
 - v. Proposed floor levels relative to the 1% AEP.
 - b. Developments on land that is identified in a Flood Planning Area is to comply with the Clauses 5.21 and 5.22 of the Upper Lachlan Local Environmental Plan 2010.
 - c. Developments on land that is identified in a Flood Planning Area is to comply with the development controls outlined in Table 3 of the Upper Lachlan Floodplain Risk Management Study 2017.
 - d. Development involving earthworks (including the importation of fill) on land identified in a Flood Planning Area that has the potential to reduce flood storage is to be supported by flood modelling prepared by a suitably qualified professional that demonstrates there will be no worsening of existing flood conditions.
 - e. Development is to ensure the floor levels of all habitable floor areas are not less than the Flood Planning Level.
 - f. Despite controls e) above, alterations and additions to existing commercial or industrial premises with floor levels below the Flood Planning Level are subject to the following requirements:
 - i. The alterations and additions do not increase the existing habitable floor area of the premises by more than 20m² or 10%, whichever is the greater.
 - ii. The alterations and additions comply with all provisions of the Upper Lachlan Development Control Plan 2025.
 - iii. Council has not previously granted consent to a Development Application that relied upon this standard in the Upper Lachlan Development Control Plan 2025.
 - g. Development on land that is identified in a Flood Planning Area that is unsewered is design to comply with the following:
 - i. On-site sewage management systems are located above the identified 5% AEP (as a minimum) and located above the 1% AEP where this can achieved.
 - ii. On-site sewage management systems are designed to withstand flooding conditions, including avoidance of inundation, consideration of structural adequacy and measures to prevent flushing / leaking in flood events.
 - h. Development involving fencing or other structures on land below the Flood Planning Level is to allow free flow of floodwaters / stormwater.
 - i. Development involving excavated underground car parking is not permitted on land at or below the Flood Planning Level.
- Note: NSW Natural Disaster Support website and Upper Lachlan Shire Council website has guidance on matters relating to the administration of flood events and planning.

I.2.3. Flood Planning Requirements for Subdivisions

OBJECTIVES

To ensure subdivisions on flood prone land do not have a significant impact on flood behaviour, peoples safety, surrounding properties and structures and the natural environment.

STANDARDS

- a. Development on land that is identified in a Flood Planning Area is to be supported by a survey plan prepared by a registered surveyor showing the following detail:
 - i. Position of existing buildings and / or proposed buildings.
 - ii. Existing ground levels (AHD) in and around the perimeter of existing buildings.
 - iii. Existing levels of stormwater infrastructure in and around the site.
 - iv. Level of the 1% AEP.
 - v. Proposed floor levels relative to the 1% AEP.
- b. Development involving subdivision of land in a Flood Planning Area is not permitted where the intensity of flooding will be increased, except where it can be demonstrated by flood modelling prepared by a suitably qualified professional that the site design achieves the following:
 - i. Flood free access above the 1% AEP.
 - ii. Flood free building envelopes above the 1% AEP.
 - iii. No worsening of existing flood conditions on or around the site.
- c. Developments on land that is identified in a Flood Planning Area is to comply with the Clauses 5.21 and 5.22 of the Upper Lachlan Local Environmental Plan 2010.
- d. Developments on land that is identified in a Flood Planning Area is to comply with the development controls outlined in the Upper Lachlan Shire Council Floodplain Risk Management Study and Plan 2017.
- e. Development involving earthworks (including the importation of fill) on land identified in a Flood Planning Area that has the potential to reduce flood storage is to be supported by flood modelling prepared by a suitably qualified professional that demonstrates there will be no worsening of existing flood conditions.

Note: NSW Natural Disaster Support website and Upper Lachlan Shire Council website has guidance on matters relating to the administration of flood events and planning.

I.3. | BUSHFIRE MANAGEMENT

APPLICATION OF THIS PART

Section 1.3 applies to all land that is affected by the Bushfire Prone Land Map prepared by the NSW Rural Fire Services for the Upper Lachlan Shire.

DEFINITIONS AND TERMS

Part 1.3 uses a number of specific terms that are explained below:

Asset Protection Zone (APZ) is a fuel-reduced area surrounding a building or structure, which varies with slope, vegetation and the Forest Fire Danger Index (FFDI).

Bush Fire is an unplanned fire burning in vegetation, also referred to as wildfire, and includes a grass fire.

Bushfire Prone Land is an area of land that can support a bush fire or is likely to be subject to bush fire / ember attack. In general, bush fire prone land identifies vegetation types and associated buffer zones, described as Category 1, Category 2 or Category 3 bushfire prone land.

Bushfire Protection Measures (BPMs) are a comprehensive set of building standards and site planning requirements designed to protect human life and property from bushfire.

Bush Fire Attack Level (BAL) is a measure of the severity of a building's potential exposure to ember attack, radiant heat and direct flame contact, which is used to establish the requirements for construction to improve protection of building elements.

Special Fire Protection Purpose is development where the vulnerable nature of the occupants means that a lower radiant heat threshold needs to be accommodated for in order to allow for the evacuation of occupants and emergency services. Examples of developments are schools and aged care facilities.

I.3.1. Bushfire Assessment Requirements for Development

OBJECTIVES

To ensure the statutory requirements of the Rural Fire Service Act 1997 are considered in assessment of development on bush fire prone land.

STANDARDS

- a. Development involving housing on land shown as bush fire prone on the NSW Rural Fire Service Bush Fire Prone Land Map is to be supported by a Bush Assessment Report prepared by a suitably professional that demonstrates compliance with the NSW Rural Fire Service Planning for Bush Fire Protection Guideline 2019.
- b. Development involving any of the following uses is required to obtain a Bush Fire Safety Authority from NSW Rural Fire Service prior to a Development Application being lodged with Upper Lachlan Shire Council, or alternatively lodged as Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979:
 - i. Schools.
 - ii. Childcare centres.
 - iii. Hospitals.
 - iv. Hotel, motel or other tourist accommodations.
 - v. Building used as a home or other establishment for mentally incapacitated persons.
 - vi. Seniors housing.
 - vii. Group homes.
 - viii. Retirement villages.
 - ix. Manufactured home estates.
 - x. Sheltered workshops or other workplace solely established for persons with disabilities.
 - xi. Respite centres.
 - xii. Student or staff accommodation.
 - xiii. Bush fire refuges.
 - xiv. Subdivisions, other than already approved strata subdivisions.
- c. Development requiring a Bush Fire Safety Authority is to be supported by a Bush Assessment Report prepared by a suitably qualified professional that demonstrates compliance with the NSW Rural Fire Service Planning for Bush Fire Protection Guideline 2019.

Note: NSW Rural Fire Service website has guidance on matters relating to the administration of bush fire planning.

I.4. | CONTAMINATED LAND MANAGEMENT

APPLICATION OF THIS PART

Section 1.4 applies to all land within the Upper Lachlan Shire.

DEFINITIONS AND TERMS

Part 1.4 uses a number of specific terms that are explained below:

Contaminated Land means land in, on or under which any substance is present at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.

Preliminary investigation means a preliminary investigation referred to in the contaminated land planning guidelines.

Remediation of contaminated land includes:

- (a) preparing a long-term management plan (if any) for the land, and
- (b) removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land, and
- (c) eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of persons or animals on the land).

I.4.1. Contamination Assessment Requirements for Development

OBJECTIVES

To ensure the statutory requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 are considered in assessment of development on land that has potential to be contaminated.

STANDARDS

- a. Development that is on land that has been used in the past for any of the following uses is to be supported by a Preliminary Site Investigation prepared by a suitable qualified professional:
 - i. Acid / alkali plant and formulation.
 - ii. Agricultural / horticultural activities.
 - iii. Airports.
 - iv. Asbestos production and disposal.
 - v. Chemicals manufacture and formulation.
 - vi. Defence works.
 - vii. Drum re-conditioning works.
 - viii. Dry cleaning establishments.
 - ix. Electrical manufacturing (transformers).
 - x. Electroplating and heat treatment premises.
 - xi. Engine works.
 - xii. Explosives industry.
 - xiii. Gas works
 - xiv. Iron and steel works.
 - xv. Landfill sites.
 - xvi. Metal treatment.
 - xvii. Mining and extractive industries.
 - xviii. Oil production and storage.
 - xix. Paint formulation and manufacture.
 - xx. Pesticide manufacture and formulation.
 - xxi. Power stations.
 - xxii. Railway yards.
 - xxiii. Scrap yards.
 - xxiv. Service stations.
 - xxv. Sheep and cattle dips.
 - xxvi. Smelting and refining.
 - xxvii. Tanning and associated trades.
 - xxviii. Waste storages.
 - xxix. Wood preservation.

Note: NSW EPA website has guidance on matters relating to the administration of contaminated land.