

THE COMMONWEALTH SEAL OF THE  
RICHMOND VALLEY COUNCIL  
WAS AFFIXED HERETO PURSUANT  
TO A RESOLUTION PASSED BY  
COUNCIL ON 21-5-2002

General Manager  
Mayor

PLAN APPROVED  
Land District  
Paper No.  
Field Book

Authorised Officer  
pages

Crown Lands Office Approval

Subdivision Certificate

I certify that the provisions of s.109A of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed  
New Road  
insert subdivision or new road set out herein

Authorised Person/General Manager/Authorised Certifier  
Consent Authority:  
Date of Endorsement:  
Accreditation No:  
Subdivision Certificate No:  
File No:

Note:  
When the plan is to be lodged electronically in the Land Titles Office Office, it should include a signature in an electronic or digital format approved by the Registrar-General.  
\*Delete whichever is inapplicable.

SURVEYOR'S REFERENCE: 9175/1

SHORT LINES

CHORD	BEARING	DISTANCE	ARC RADIUS
1	322°19'35"	5.42	15.595
2	337°53'30"	14.8	43.37
3	98°33'25"	27.995	12.645
4	213°10'50"	12.215	4.49
5	217°37'	4.49	14

AREAS

LOT	AREA
LOT 1	114.4m <sup>2</sup>
LOT 2	299.3m <sup>2</sup>
LOT 3	306.3m <sup>2</sup>
LOT 4	623.1m <sup>2</sup>
LOT 5	754.5m <sup>2</sup>
LOT 6	67.48ha DED'N

SURVEYORS (PRACTICE) REGULATION 1996: CLAUSE 32(2)

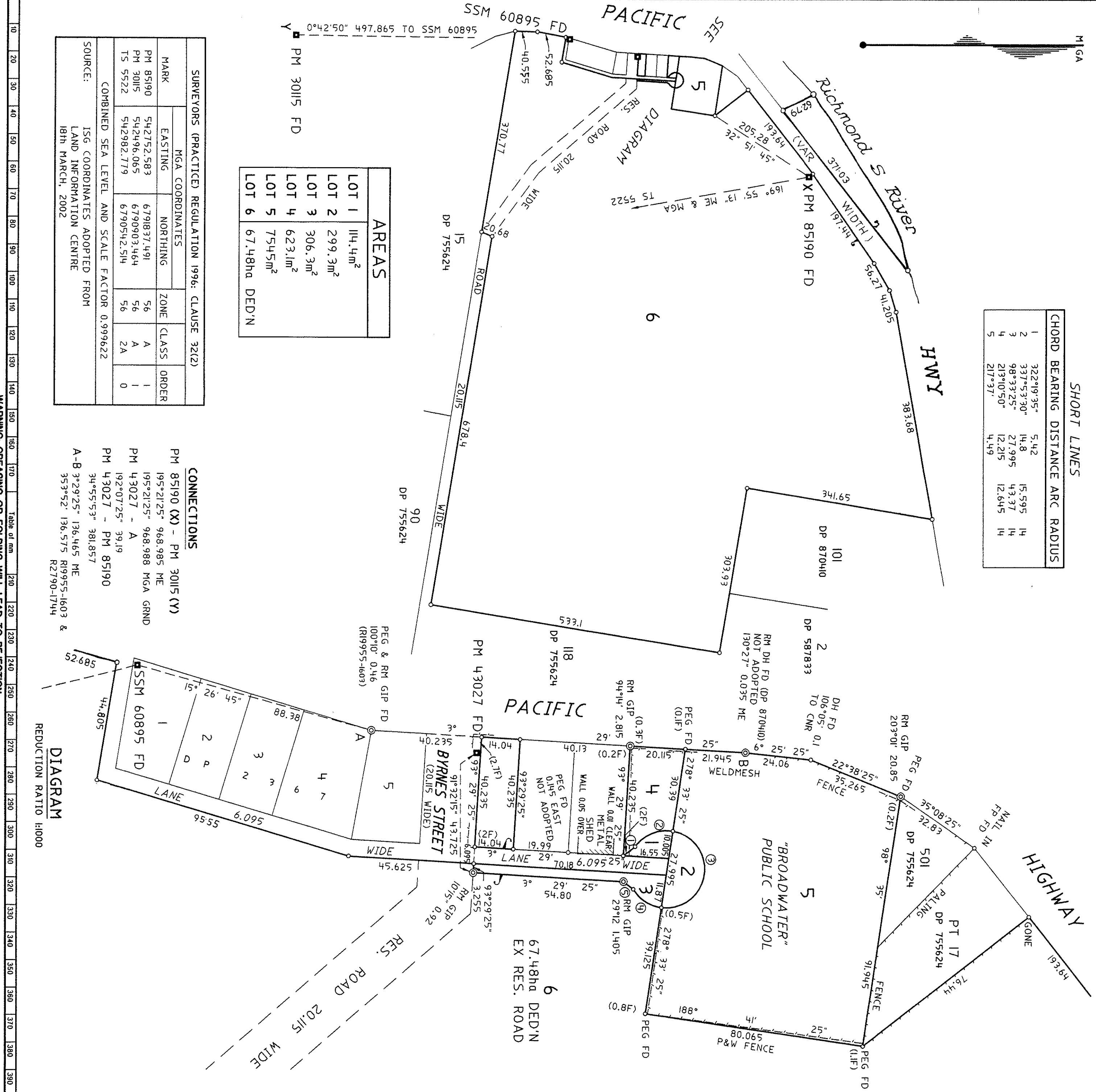
MARK	EASTING	NORTHING	ZONE	CLASS	ORDER
PM 85190	542752.583	6791837.491	56	A	1
PM 30115	542496.065	6790903.464	56	A	1
TS 5522	542982.779	6790542.514	56	2A	0

COMBINED SEA LEVEL AND SCALE FACTOR 0.999622

SOURCE: ISG COORDINATES ADOPTED FROM LAND INFORMATION CENTRE 18th MARCH, 2002

CONNECTIONS

PM 85190 (X) - PM 30115 (Y)  
195°21'25" 968.985 ME  
195°21'25" 968.988 MGA GRND  
PM 43027 - A  
192°07'25" 39.19  
PM 43027 - PM 85190  
34°55'53" 381.857  
A-B 3°29'25" 136.465 ME  
353°52' 136.575 R19955-1603 & R2790-1744



WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

DP1043232

Registered: 27.9.2002  
Title System: TORRENS  
Purpose: ACQUISITION / PLAN IS NOT A CURRENT PLAN AT REGISTRATION  
SEE SEC 7A CONVEYANCING ACT(1919)

Ref Map: PARISH  
Last Plan: DP870410#

PLAN  
PLAN OF LAND TO BE ACQUIRED FOR THE PURPOSES OF THE ROADS ACT 1993 OVER LOT 1 IN DP 123386, LOT 1 IN DP 910118 & LOT 1 IN DP 870410. Reduction Ratio 1:5000  
Lengths are in metres

LGA: RICHMOND VALLEY  
Locality: BROADWATER  
Parish: RILEY  
County: RICHMOND

This is sheet 1 of my plan. (delete if inapplicable)

1. GLEN JOHN HEATH  
of ASPECT NORTH  
2A CARRINGTON ST. LISMORE NSW 2480  
a surveyor registered under the Surveyors Act 1929, hereby certify that the survey represented in this plan is accurate, has been made in accordance with the Surveyors (Practiced) Regulation 2001 and was completed on 12/03/2002.  
The survey relates to LOTS 1 TO 5 ONLY

Date: 2/5/02  
Datum: X-Y MGA Type: Urban/Arb.  
Surveyor registered under the Surveyors Act 1929

Plans used in preparation of Survey/Compilation:  
DP 1031889 DP 123386  
DP 910118 DP 2367  
DP 908972 R 2790-1744  
DP 870410 R 19955-1603  
DP 820054  
DP 253906

PANEL FOR USE ONLY for statements of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.  
LOTS 1, 2 & 3 ARE REQUIRED FOR ROAD AND AFTER CONSTRUCTION WILL BE DEDICATED AS ROAD UNDER S10 OF THE ROADS ACT 1993

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH  
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FOLIO: 501/755624  
-----

SEARCH DATE	TIME	EDITION NO	DATE
24/8/2022	4:24 PM	1	16/5/1995

LAND  
-----

LOT 501 IN DEPOSITED PLAN 755624  
AT BROADWATER  
LOCAL GOVERNMENT AREA RICHMOND VALLEY  
PARISH OF RILEY COUNTY OF RICHMOND  
(FORMERLY KNOWN AS PORTION 501)  
TITLE DIAGRAM CROWN PLAN 2805.1744

FIRST SCHEDULE  
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MINISTER FOR EDUCATION, TRAINING AND YOUTH AFFAIRS (DD 099005)

SECOND SCHEDULE (2 NOTIFICATIONS)  
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- \* 1 DEDICATED FOR PUBLIC SCHOOL SITE GOV. GAZ. 30.3.1962 FOL 920
- 2 LAND EXCLUDES MINERALS (S.171 CROWN LANDS ACT 1989)

NOTATIONS  
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UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

EC2227

PRINTED ON 24/8/2022

Search Date/Time: 24/08/2022 4:24PM

LEGALSTREAM AUSTRALIA - hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900.

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH  
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FOLIO: 5/1043232  
-----

SEARCH DATE	TIME	EDITION NO	DATE
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24/8/2022	4:24 PM	-	-

LAND  
-----

LOT 5 IN DEPOSITED PLAN 1043232  
AT BROADWATER  
LOCAL GOVERNMENT AREA RICHMOND VALLEY  
PARISH OF RILEY COUNTY OF RICHMOND  
TITLE DIAGRAM DP1043232

FIRST SCHEDULE  
-----

MINISTER FOR EDUCATION

SECOND SCHEDULE (1 NOTIFICATION)  
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1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)

NOTATIONS  
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9137203 NOTE: CURRENT FOLIO IS 1/123386 WHICH MUST BE PRODUCED WITH  
NEXT DEALING

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

EC2227

PRINTED ON 24/8/2022

Search Date/Time: 24/08/2022 4:24PM

LEGALSTREAM AUSTRALIA - hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900.

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Your Reference: EC2227

Our Reference: Certificate No.PL2023/0097 Land ID.43069

Contact: Customer Service

To: EPM Projects Pty Ltd  
Suite 7.02  
67 Albert Avenue  
CHATSWOOD NSW 2067

Richmond Valley Council

# Planning Certificate

under Section 10.7 (formerly Section 149) of the *Environmental Planning and Assessment Act 1979*

## Certificate No

**PL2023/0097**

Receipt Number

2107043

Date Certificate was Issued

22 August 2022

## Property Description

Lot/Section/DP/SP/EP etc

**Lot 5 DP 1043232**

Land Address

**Broadwater Public School 9 Byrnes Street  
BROADWATER NSW 2472**

Parish

**Riley**

Valuation/Assessment No

**3755000001**

Property ID

**136040**

Land ID

**43069**

Land Area

**7545.0000 Square Metres**

## ADVICE SUPPLIED UNDER SUBSECTION (2)

Advice under Section 10.7(2) (formerly known as Section 149(2) or 149 Part 2) of the *Environmental Planning and Assessment Act 1979* is prescribed by Clause 279 and Schedule 4 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the prescribed matters are attached at Appendix 1 to this Certificate.

Richmond Valley Council, Cnr Walker Street & Graham Place, (Locked Bag 10) Casino NSW 2470

t: 02 6660 0300 f: 02 6660 1300 e: council@richmondvalley.nsw.gov.au

w: [richmondvalley.nsw.gov.au](http://richmondvalley.nsw.gov.au)  RichmondValleyCouncil ABN 54 145 907 009

# 1. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS AND ZONINGS

## (a) Local Environmental Plan (LEP)

### ***What is the applicable LEP?***

#### **Richmond Valley Local Environmental Plan 2012**

This Plan was notified on the NSW Legislation website on 9 March 2012 and commenced on 21 April 2012. It applies to the entire Richmond Valley Council Local Government Area, which is identified on the Land Application Map. It has had several amendments since it commenced.

A current version of the LEP and mapping (as PDF map sheets) are available on the NSW Legislation website –

<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+98+2012+cd+0+N>

**Note.** The local environmental plan is freely available for download from the NSW Legislation website at –  
[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)  
 or may be freely viewed at Council's Offices in Casino and Evans Head.

## (i) Land Zoning

The land is contained within the following Land Zones. Attached to each zone is a land use table that identifies the objectives of the zone and the purposes for which development:

- (a) may be carried out **without development consent**,
- (b) may be carried out **only with development consent**, or
- (c) is **prohibited**.

### ***What is the applicable Land Zone?***

#### **Zone RU1 Primary Production**

##### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.

##### **2 Permitted without consent**

Extensive agriculture; Forestry; Home occupations; Horticulture; Viticulture

##### **3 Permitted with consent**

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Funeral homes; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Hospitals; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Kiosks; Landscaping material supplies; Moorings; Open cut mining; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Signage; Turf farming; Veterinary hospitals; Water recreation structures;

- 4 **Water supply systems**  
**Prohibited**  
 Advertising structures; Any other development not specified in item 2 or 3

**Note.** A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

*State Environmental Planning Policy (Affordable Rental Housing) 2009* (including provision for secondary dwellings)

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

*State Environmental Planning Policy (Infrastructure) 2007*—relating to infrastructure facilities such as those that comprise, or are for, air transport, correction, education, electricity generating works and solar energy systems, health services, ports, railways, roads, waste management and water supply systems

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

*State Environmental Planning Policy (Rural Lands) 2008*

*State Environmental Planning Policy No 33—Hazardous and Offensive Development*

*State Environmental Planning Policy No 50—Canal Estate Development*

*State Environmental Planning Policy No 62—Sustainable Aquaculture*

*State Environmental Planning Policy No 64—Advertising and Signage*

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**Does Schedule 1 of the LEP permit additional uses on this land?**

No

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**(ii) Minimum Lot Size (MLS) for subdivision**

Clause 4.1 of the LEP provides that the size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

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**What is the applicable Minimum Lot Size?**

- 40 hectare

**Note.** Despite the Minimum Lot Size identified above, there are several exceptions provided for within Part 4 of the LEP, relating to strata, community title, dual occupancy, commercial development, and rural subdivisions. Refer to the appropriate clauses in Part 4 of the LEP for details.

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**(iii) Maximum Building Height**

Clause 4.3 of the LEP provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. Heights are measured above natural ground level.

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**What is the maximum Height of Buildings?**

- Maximum building height of 8.5 metres above the natural ground level.

**Note.** Despite the maximum building height identified above, clause 4.6 provides for an exception to this building height to be granted development consent where it can be demonstrated that the standard is unreasonable or unnecessary in the circumstances of the case.

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**(iv) Land Reserved for Acquisition**

Clause 5.1 of the LEP reserves land, identified by Public Authorities, for future infrastructure or other public purposes. The clause identifies the land zoning, the future use of the land, and the authority responsible for the acquisition.

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**Is any part of this land reserved for acquisition?**

No – There is no part of this land reserved for acquisition.

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**(v) Natural Resource Overlays**

A number of overlays have been employed within *Richmond Valley Local Environmental Plan 2012* to identify natural resources. The purpose for the overlays is to trigger an assessment process for any development application that proposes works or activities within the boundaries of the mapped natural resource. Each natural resource has its own clause which identifies the appropriate heads of consideration for that constraint.

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***Has a Natural Resource (NRS) been identified on this land?*****Yes - Riparian land and Watercourses**

NRS - Riparian land and Watercourses consist of mapped key fish habitats, as identified by the Department of Primary Industries (Fisheries), which have been depicted on the *Richmond Valley Local Environmental Plan 2012 Riparian Land and Waterways Map*. The mapping comprises of creeks, rivers, estuaries, drains and low lying areas including a 40 metre buffer to capture riparian lands.

The aim of identifying these riparian lands and watercourses is to mitigate impacts from development on waterway health for aquatic organisms.

Clause 6.8 of the LEP contains further details on criteria to be considered as part of the development assessment process.

**Yes - Terrestrial Biodiversity**

NRS - Terrestrial Biodiversity consists of mapped native vegetation and habitat corridors on the *Richmond Valley Local Environmental Plan 2012 Terrestrial Biodiversity Map*.

The aim of identifying terrestrial biodiversity is to mitigate impacts from development on biodiversity.

Clause 6.6 of the LEP contains further details on criteria to be considered as part of the development assessment process.

<p><b>Note.</b> The NRS overlays do not trigger the need for development consent. They only highlight the need to undertake additional assessment of applications that are lodged for land uses that do require development consent.</p>
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**(vi) Exempt and Complying Development**

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***What is Exempt development?***

Exempt development is minor development that needs no development consent or any other impact assessment (such as under Part 5 of the *Environmental Planning and Assessment Act 1979*).

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***What is Complying Development?***

Complying Development is development that can be undertaken with a Complying Development Certificate. A Complying Development Certificate (CDC) may be obtained from Council or an Accredited Certifier, subject to pre-determined conditions. A CDC may only be issued if all the specified requirements are satisfied but such a certificate can be acquired within 10 working days.

Most exempt and complying development is regulated under *State Environmental Planning Policy (Exempt and Complying Development Code) 2008*. However, additional types of exempt and complying development are provided within:

- Schedules 2 and 3 (respectively) of the ***Richmond Valley Local Environmental Plan 2012***
- ***State Environmental Planning Policy (Infrastructure) 2007***
- ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

**(vii) Acid Sulfate Soil (ASS)**

Clause 6.1 of the LEP contains provisions that regulate excavation works and drainage works within mapped Acid Sulfate Soil (ASS) areas. These soils have been identified as Classes 1, 2, 3, 4 and 5 on the *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map*.

**What are Acid Sulfate Soils?**

Acid Sulfate Soils (ASS) are a naturally occurring soil layer found within the coastal zone resulting from previous higher ocean levels. When exposed to air these soils oxidise to create sulfuric acid (H<sub>2</sub>SO<sub>4</sub>). Acid when released into the environment has the potential for environmental and economic impacts. Therefore, best management practice is to avoid exposing the soil to air.

**Works do not require development consent under Clause 6.1 if:**

- (a) the works involve disturbance of less than one tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins), foundations or flood mitigation works), or
- (b) the works are not likely to lower the watertable.

**Is there Acid Sulfate Soil (ASS) identified on this land?****Yes - Class 3 Acid Sulfate Soil**

The *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map* identifies the potential for Class 3 Acid Sulfate Soil to be found on or beneath this land.

Notwithstanding any other provision of the LEP, Clause 6.1 requires development consent to do any works more than 1 metre below the natural ground surface, or works by which the watertable is likely to be lowered more than 1 metre below the natural ground level.

**Note.** *Richmond Valley Local Environmental Plan 2012* and the Acid Sulfate Soil Map are freely available for download from NSW Legislation website at –

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

or may be viewed at Council's Offices in Casino and Evans Head.

**(viii) Environmental Heritage?**

**Environmental heritage** is defined within the *Heritage Act 1977* as meaning those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.

Clause 5.10 of the *Richmond Valley Local Environmental Plan 2012* provides for the protection of heritage items identified within Schedule 5 and on the Heritage Map.

Furthermore, the *Heritage Act 1977* provides for the protection of items of State heritage significance by listing them on the State Heritage Register.

**Is there a Heritage listing on this land?**

Nil – There is no listed heritage on this land.

**Is there listed Heritage in the vicinity of this land?**

Clause 5.10(5) of the LEP provides that a heritage management document may be required for any development within the vicinity of a listed heritage item to assess the extent the proposed development would have on the listed item's heritage significance. Any listed heritage items located within 50 metres of this land is identified below:

Nil - There are no listed heritage items adjoining this land.



Suggested websites for additional information:	
Register of the National Estate	<a href="http://www.environment.gov.au/heritage/register/index.html">http://www.environment.gov.au/heritage/register/index.html</a>
Heritage Inventory and State Heritage Register of NSW Heritage Office (includes State and local heritage items)	<a href="http://www.heritage.nsw.gov.au">http://www.heritage.nsw.gov.au</a>
Aboriginal Heritage Information Management System	<a href="http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm">http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm</a>

### (ix) **Minimum Land Dimensions For a Dwelling**

The *Environmental Planning and Assessment Regulation 2000* requires that a Planning Certificate provide advice on “whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed”.

#### **Rural Zoned Land**

The local environmental plan permits dwelling houses in the rural zones of RU1 Primary Production and E3 Environmental Management, with consent, however not all lots within these zones have a dwelling opportunity. Clause 4.2B restricts which allotments, in Zone RU1 Primary Production and Zone E3 Environmental Management, may have a dwelling erected upon them. There are several provisions used to determine if a 'dwelling opportunity' exists for an allotment.

One provision provides that a dwelling opportunity exists for each allotment having an area greater than the subdivision minimum lot size identified for the land on the Lot Size Map. However, there are other provisions, and the Dwelling Opportunity Map, that provide for additional means of determining if a lot has a dwelling opportunity.

**Note:** The above advice is given in regards to land dimensions only and has not assessed whether the land has a dwelling opportunity, whether the subject land has an existing dwelling, or whether the subject land may be suitable for a dwelling. The only means of guaranteeing that a dwelling will be granted consent is to obtain a development consent.

### (x) **Conservation Areas (Environmental Protection Areas)**

A conservation area is reference to an *environmental protection* classification under a statutory document.

#### **Has a Conservation Area been identified on this land?**

Yes - This land contains the following conservation area(s):

- Coastal Management SEPP - Environment Area

**Note<sup>1</sup>:** Consideration has only been given to whether the land contains Land Zone C1, C2, C3, W1, or declared area of outstanding biodiversity value (formerly Critical Habitat)(Biodiversity Conservation Act 2016), Critical Habitat (Fisheries Management Act 1994), a wilderness area, Conservation Agreement, Biodiversity Stewardship Agreement (or Biobanking Agreement) or Native Vegetation clearing set asides, or Coastal Zone (Biodiversity & Conservation SEPP).

Natural Resource Overlays, as mapped within Clauses 6.6, 6.7, 6.8, 6.9 and 6.10, may also apply to this land but have been excluded from this assessment.

**Note<sup>2</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

### (xi) **Land located at the Glebe, Coraki**

Not Applicable - This land is not located in the area known as the Glebe, Coraki.

**(xii) Land located within the Historic New Italy Village Area**

Not Applicable - This land is not located within the Historic New Italy Village Area.

**(b) Draft Local Environmental Plan(s) (DLEP)**

Preparation of a Draft local environmental plan (DLEP) requires a Planning Proposal to be publicly exhibited, pursuant to Section 3.34(2)(c) of the *Environmental Planning and Assessment Act 1979*, to obtain community feedback. Planning Proposals are summarised overviews of the expected outcomes from a DLEP. It also addresses all the statutory considerations that the Department of Planning and Environment require.

**Are there any Draft Local Environmental Plans applying to this land?**

No – There are no Draft Local Environmental Plans relevant to this land.

**Note.** Planning Proposals that have been placed on public exhibition are freely available for download from Council's website at –

<http://www.richmondvalley.nsw.gov.au>

or may be viewed at Council's Offices in Casino and Evans Head.

Once a draft LEP has been Notified on the NSW Legislation Website it will be deleted from Council's website with amendments being incorporated into the consolidated LEP.

**(c) Development Control Plan (DCP)**

The principal purpose of a development control plan is to provide guidance on carrying out development by:

- giving effect to the aims of any environmental planning instrument that applies to the development,
- facilitating development that is permissible under any such instrument,
- achieving the objectives of land zones under any such instrument, and
- identifying advertised development.

**What is the applicable DCP?****Richmond Valley Development Control Plan 2021 (RVDCP21)**

This DCP was adopted by Council on 22 June 2021 and became effective from 1 August 2021. It applies to the entire Richmond Valley Council area.

The DCP complements the *Richmond Valley Local Environmental Plan 2012* by providing development standards, assessment criteria, guidelines and policy on a range of subjects.

**Note.** The development control plan is freely available for download from the Council website at -

<https://richmondvalley.nsw.gov.au/building-and-planning-services/strategic-planning/development-control-plan/>; or

from the NSW Planning Portal at-

[https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/Richmond+Valley+DCP+2021+-+Commence+1+August+2021\\_S-3531.pdf](https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub_pdf/Richmond+Valley+DCP+2021+-+Commence+1+August+2021_S-3531.pdf); or

may be freely viewed at Council's Offices in Casino and Evans Head.

**(i) RVDCP21 Structure**

The DCP is structured into Parts and Chapters -

- Introduction (Administrative Provisions),
- Parts A to E-relating to grouped development types (Residential, Commercial, Industrial, Rural & Tourist/Visitor Accommodation),
- Parts F & G-relate to ungrouped development types (Signage, Subdivision & NRM), and
- Part I-relates to subject based topics.

An outline of the DCP is provided in Appendix 4 to this Certificate.

**(ii) Residential Accommodation**

Part A – Residential Development contains regulations, standards and assessment criteria for residential accommodation. This Part contains Chapters relating to dwelling houses, residential flat development (including multi dwelling housing), dual occupancies, shop-top housing, and seniors & affordable housing. This Part applies to all zones, although it should be noted that some types of residential accommodation may not be permissible in some zones.

Residential densities apply to land contained within Zone R1 General Residential, RU5 Village, B1 Neighbourhood Centre, B2 Local Centre and B3 Commercial Core. These densities have been mapped within the DCP.

**Has a Residential Density been identified for this land?**

The following density(s) apply -

None - This land is not located within a mapped Residential Density area.

**(iii) Building Lines and Setbacks**

Chapter I-3 defines building setbacks and building lines for development. These setbacks and building lines relate to:

- Front Boundary Building Line Setbacks
- Side and Rear Boundary Setbacks, and
- Foreshore Building Line Setbacks.

**What are the Front Boundary Building Line Setbacks?**

The following table contains the minimum building line setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Front Building Line Setbacks
R1 General Residential	All development	<ul style="list-style-type: none"> <li>➢ 6 metres Primary Road Frontage</li> <li>➢ 3 metres to Secondary or Parallel Road Frontage</li> </ul>
	Multi Dwelling Housing	<ul style="list-style-type: none"> <li>➢ Primary Road Frontage - 6 metres</li> <li>➢ Secondary or Parallel Road Frontage - 3 metres</li> <li>➢ Classified Road <ul style="list-style-type: none"> <li>○ Primary Road Frontage - 9 metres</li> <li>○ Secondary Road Frontage <ul style="list-style-type: none"> <li>▪ 2m (lot area 0-900m<sup>2</sup>)</li> <li>▪ 3m (lot area &gt;900-1500m<sup>2</sup>)</li> <li>▪ 5m (lot area &gt;1500m<sup>2</sup>)</li> </ul> </li> </ul> </li> </ul>
	Residential Flat Building	<ul style="list-style-type: none"> <li>➢ Primary Road Frontage- <ul style="list-style-type: none"> <li>○ 6 metres Primary Road Frontage, and</li> <li>○ for that part of any development above 3 storeys – 10 metres</li> </ul> </li> <li>➢ Secondary and Parallel Road Frontages- <ul style="list-style-type: none"> <li>○ 3 metres – up to 2 storeys</li> <li>○ 6 metres – &gt;storeys, however for that part of any development &gt;3 storeys a 10 metre setback applies</li> </ul> </li> </ul>
	Ancillary Residential Development	<ul style="list-style-type: none"> <li>➢ Garages <ul style="list-style-type: none"> <li>○ Primary Road frontage - 7 metres</li> <li>○ Secondary or Parallel Road frontage – 5.5 metres</li> </ul> </li> <li>➢ Other ancillary development <ul style="list-style-type: none"> <li>○ Primary Road frontage - 6 metres</li> <li>○ Secondary or Parallel Road frontage – 3 metres</li> </ul> </li> </ul>
RU5 Village	Residential accommodation	<ul style="list-style-type: none"> <li>➢ Consistent with the requirements of Part A Residential Accommodation in DCP21 (which sets a 6 metres building line setback)</li> </ul>
	Ancillary Residential Development	<ul style="list-style-type: none"> <li>➢ Garages <ul style="list-style-type: none"> <li>○ Primary Road frontage - 7 metres</li> <li>○ Secondary or Parallel Road frontage – 5.5 metres</li> </ul> </li> <li>➢ Other ancillary development <ul style="list-style-type: none"> <li>○ Primary Road frontage - 6 metres</li> <li>○ Secondary or Parallel Road frontage – 3 metres</li> </ul> </li> </ul>
	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	<ul style="list-style-type: none"> <li>➢ Zero</li> </ul>

Zone	Development Types	Minimum Front Building Line Setbacks
	All Other Land Uses	➤ 6 metres
RU1 Primary Production, R5 Large Lot Residential, and C3 Environmental Management	Residential accommodation	➤ 15 metres—where fronting a local sealed road ➤ 50 metres—where fronting a local unsealed road ➤ 20 metres—where fronting a Classified Road
	All other development	➤ 20 metres
B1 Neighbourhood Centre	All development	➤ 6 metres
B2 Local Centre	Shop top housing, Seniors Living, Boarding Houses <sup>1</sup>	➤ Zero—where located above ground floor commercial development, else ➤ 6 metres
	All other development <sup>1</sup>	➤ Zero
B3 Commercial Core	Shop top housing, Seniors Living, Boarding Houses <sup>1</sup>	➤ Zero—where located above ground floor commercial development, else ➤ 6 metres <b>Note.</b> Refer to Heritage Conservation Area considerations.
	All other development <sup>1</sup>	➤ Zero <b>Note.</b> Refer to Heritage Conservation Area considerations.
IN1 General Industry	All development	➤ 6 metres to a primary frontage ➤ 3 metres to secondary or parallel road frontage on a residential zone interface ➤ 2 metres to a secondary or parallel road frontage, where the site is not on an interface with a residential zone
Other Zones	All development	➤ As per nearest adjoining zone

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, and coping, but excludes eaves.

**Note <sup>1</sup>.** Vehicular access opening of garages and sheds must be a minimum of 5.5 metres from the boundary with a road alignment.

**Note<sup>2</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

### What are the Side Boundary Setbacks?

The following table contains the minimum side boundary setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Side Setbacks
R1 General Residential RU5 Village	All Development	Consistent with the requirements for residential accommodation in Part A of the DCP.
	Dwellings houses Dual occupancy Secondary dwellings	➤ Building height 0 - 3.5m = 0.9 metres ➤ Building height >3.5m = per following formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
	Ancillary Residential Development	➤ Wall height <3m = 0.9m ➤ Wall height 3 – 4.5m = Wall height – 2 metres
	Multi Dwelling Housing	➤ 1.5m, and for ➤ Development that is 10m behind the front building line and >4.5m above ground level (existing) – formula Height of that part of the building – 3metres
	Residential Flat Buildings	➤ 2.5 metres, and ➤ 6 metres – any part of that development above 2 storeys
RU5 Village	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	➤ Zero
RU1 Primary Production R5 Large Lot Residential C3 Environmental Management	Residential Accommodation Ancillary Residential Development	See Part A – Residential Accommodation in DCP21 (which sets a 5 metres side boundary setback) <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
	All development	➤ 5 metres ➤ <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)

Zone	Development Types	Minimum Side Setbacks
B1 Neighbourhood Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Side Boundary – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
B2 Local Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero
B3 Commercial Core	Commercial Premises	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero—for that part of development 3 storeys or less, and ➤ 6 metres—for any part of the development 4 storeys or greater
IN1 General Industry	All other development	➤ Zero (but subject to BCA requirements), or ➤ To side boundary sharing boundary with residential development – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
Other Zones	All development	➤ Consider on merit

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, coping, but excludes eaves.

**Note<sup>1</sup>.** The *Building Code of Australia* may require the Class of building to incorporate special fire protection measures into the construction to achieve the minimum setbacks contained within Table I-3.2.

**Note<sup>2</sup>.** Side and rear boundary setbacks may need to increase to achieve minimum Asset Protection Zones (APZ) within bushfire prone areas.

**Note<sup>3</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

### What are the Rear Boundary Setbacks?

The following table contains the minimum rear boundary setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Rear Setbacks
R1 General Residential RU5 Village	Residential Accommodation	➤ Single Storey = 3 metres ➤ Two Storey ○ First Storey = 3 metres ○ Second Storey = 6 metres
	Ancillary Residential Development	➤ If attached to residential accommodation – as per the residential accommodation ➤ If detached from residential accommodation – ○ wall height <2.9m = 0.9m ○ wall height >2.9m to 4.5m = maximum wall height – 2 metres
	Multi Dwelling Housing	➤ 6 metres
	Residential Flat Building	➤ 3 metres, and ➤ 6 metres – any part of that development above 2 storeys
	Other development <sup>1</sup>	➤ Consider on merits, or ➤ As required in a specific Chapter of the DCP.
RU5 Village	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	➤ Zero

Zone	Development Types	Minimum Rear Setbacks
RU1 Primary Production R5 Large Lot Residential C3 Environmental Management	Residential Accommodation Ancillary Residential Development	See Part A – Residential Accommodation in DCP21 (which sets a 5 metres side boundary setback) <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
	All development	➤ 5 metres ➤ <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
B1 Neighbourhood Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Side Boundary – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
B2 Local Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero
B3 Commercial Core	Commercial Premises	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero—for that part of development 3 storeys or less, and ➤ 6 metres—for any part of the development 4 storeys or greater
IN1 General Industry	All other development	➤ Zero (but subject to BCA requirements), or ➤ To side boundary sharing boundary with residential development – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
Other Zones	All development	➤ Consider on merit

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, coping, but excludes eaves.

**Note<sup>1</sup>.** The *Building Code of Australia* may require the Class of building to incorporate special fire protection measures into the construction to achieve the minimum setbacks contained within Table I-3.2.

**Note<sup>2</sup>.** Side and rear boundary setbacks may need to increase to achieve minimum Asset Protection Zones (APZ) within bushfire prone areas.

**Note<sup>3</sup>.** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

**Does a Foreshore Building Line Setback apply?**

Yes - 40 metre Foreshore Building Line Setback

Applies to all non-urban zoned land and is measured from the LEP Zone boundaries of Zone W1 Natural Waterway and Zone W2 Recreational Waterway.

**Note.** Most development must be located outside the Foreshore Building Line, although some exceptions are provided within Chapter I-3 of the Development Control Plan.

**Note:** Richmond Valley Development Control Plan 2021 is freely available for download from Council's website at –  
<http://www.richmondvalley.nsw.gov.au>  
or may be viewed at Council's Offices in Casino and Evans Head.

**(d) Draft Development Control Plan(s)**

A Development Control Plan (DCP) may be amended in the same manner as a new DCP can be created. A Draft DCP must be publicly exhibited for a minimum period of 28 days in accordance to the *Richmond Valley Council Community Participation Plan*.

**What Draft DCP(s) apply to this land?**

There are no Draft DCPs currently applying to this land.

**Note:** Draft DCP's, where applicable, are freely available for download from Council's website at – <http://www.richmondvalley.nsw.gov.au> or may be viewed at Council's Offices in Casino and Evans Head.

**(e) State Environmental Planning Policies (SEPPs)**

State Environmental Planning Policies (SEPPs) are created by the Governor under Division 3.3 of the *Environmental Planning and Assessment Act 1979*. SEPPs may be made with respect to such matters as are of significance for environmental planning in the State of New South Wales.

**Note.** State environmental planning policies may be downloaded from the NSW Legislation website at- <http://www.legislation.nsw.gov.au>

Following is a list of relevant SEPPs.

See Section (f) for any relevant Draft SEPPs.

**State Environmental Planning Policy No. 1 - Development Standards**

**[Not applicable]**

See clause 4.6 of the *Richmond Valley Local Environmental Plan 2012* to vary certain development standards.

**Note.** See Clause 4.6 of the RVLEP12.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

This is a consolidated SEPP which commenced on 1 March 2022. Following are Chapters which are relevant to this land-

**Chapter 2 Vegetation in non-rural areas**

This Chapter applies to non-rural zoned land (ie within Zones RU5 Village, R1 General Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, IN1 General Industry, SP1 Special Activities, SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, C2 Environmental Conservation, C3 Environmental Management).

The Chapter aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

This Policy operates at 2 levels:

- for minor vegetation removal that is below the Biodiversity offset scheme thresholds, it will apply like a Tree Preservation Order and require a permit for clearing of vegetation, but only where a DCP provides for it to operate.
- for vegetation removal above the threshold, an approval will be required from the Native Vegetation Panel for clearing native vegetation.

Currently Richmond Valley Council does not have a DCP provision that activates an approval/permit process below the threshold.

**Chapter 3 Koala habitat protection 2020**

This Chapter applies to land within Land Zone RU1 Primary Production and RU3 Forestry. It aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living

population over the present range and reverse the current trend of koala population decline by-

- (a) requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat; and
- (b) encouraging the identification of areas of core koala habitat; and
- (c) encouraging the inclusion of areas of core koala habitat in environmental protection zones.

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#### **Chapter 4 Koala habitat protection 2021**

This Chapter applies to all land except Land Zone RU1 Primary Production & RU3 Forestry. It aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Richmond Valley LGA is within the North Coast Koala Management Area for the purposes of Koala use tree species (as listed within Schedule 3 of the SEPP).

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#### **Chapter 7 Canal estate development**

This Chapter prohibits new canal estate developments in NSW.

**Note:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

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### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

Regulations have established a scheme to encourage sustainable residential development (the BASIX scheme) under which:

- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
- (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

There are BASIX requirements for water and energy usage and thermal comfort performance that apply to:

- all new residential dwellings.
- alterations and additions to dwellings that cost \$50,000 or more.
- swimming pools of 40,000 litres or more.

More information, and access to the online BASIX assessment tool, can be found at-

<https://www.planningportal.nsw.gov.au/basix>

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### **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

This SEPP became effective from 27 February 2009 with subsequent amendments. The Policy is divided into the following Parts: Part 1 General; Part 2 Exempt Development Codes; Part 3 General Housing Code; Part 3A Rural Housing Code; Part 4 Housing Alterations Code; Part 4A General Development Code; Part 5 Commercial and Industrial Alterations Code; Part 5A Commercial and Industrial (New Buildings and Additions) Code; Part 6 Subdivisions Code; Part 7 Demolition Code; and Part 8 Fire Safety Code.

The aims of this Policy are to provide a streamlined assessment process for development that complies with specified development standards by: a) providing exempt and complying development codes that have State-wide application; b) identifying, in the Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the *Environmental*



*Planning and Assessment Act 1979*; d) enabling the progressive extension of the types of development in the policy; and e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.

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### ***Can Complying Development be Undertaken on this Land?***

The *Environmental Planning and Assessment Regulation 2000* requires a section 149 (2) Planning Certificate to advise whether or not the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A(1) (c) to (e), (2), (3) and (4), 1.18(1)(c3), and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Clauses 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3), and 1.19 identify a number of conditions upon which exempt or complying development may not be carried out on land. In response to this question, Council has undertaken an assessment of the applicable constraints referred to within the clauses and determined whether development in, accordance with the relevant Codes, may/may not be carried out as Complying Development under the SEPP-

#### **Part 3 - Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

#### **Part 3A - Rural Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

#### **Part 3B – Low Rise Housing Diversity Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

#### **Part 3C – Greenfield Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

#### **Part 3D – Inland Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

**Part 4 - Housing Alterations Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 4A - General Development Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 5 – Commercial and Industrial Alterations Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 5A – Commercial and Industrial (New Buildings and Additions) Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Foreshore area identified in the Richmond Valley DCP 2015
- Coastal Management SEPP - Coastal Environment area

**Part 5B – Container Recycling Facilities Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 6 - Subdivisions Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 7 - Demolition Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 8 – Fire Safety Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

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***State Environmental Planning Policy (Housing) 2021***

This SEPP commenced on 1 March 2022 and comprises the translation of previous housing related SEPPs into a single consolidated SEPP.

The principles of this Policy are as follows—

- (a) enabling the development of diverse housing types, including purpose-built rental housing,
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,

- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (h) mitigating the loss of existing affordable rental housing.

Following Chapters are relevant to this land-

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### ***Chapter 2 Affordable Housing***

This Chapter provides for affordable housing such as:

- in-fill affordable housing
- boarding houses
- boarding houses—Land and Housing Corporation
- supportive accommodation
- residential flat buildings—social housing providers, public authorities and joint ventures
- residential development—Land and Housing Corporation, and
- Retention of existing affordable rental housing.

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### ***Is there a Development Consent and conditions relating to provision of Affordable Housing on this land?***

No – there is no development consent (and conditions) relating to the provision of affordable housing on this land

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### ***Chapter 3 Diverse Housing***

This Chapter provides for diverse housing options such as:

- secondary dwellings
- Group Homes
- Co-living housing
- Build-to-rent housing
- Housing for seniors and people with a disability
- short-term rental accommodation
- conversion of certain serviced apartments
- manufactured home estates, and
- caravan parks.

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### ***Is there a Development Consent and conditions restriction occupation of housing on this land to seniors or people with disabilities?***

No – there is no development consent (and conditions) restricting occupation of housing on this land to seniors or people with disabilities

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### ***Site Compatibility Certificates***

The Housing SEPP (and formerly the Affordable Housing SEPP and the Seniors SEPP) enables the Planning Secretary to issue Site Compatibility Certificates certifying the land suitable for that development.

***Is there a Site Compatibility Certificate for this land?***

No – there is no Site Compatibility Certificate under the former Affordable Housing SEPP for this land

No – there is no Site Compatibility Certificate under the former Seniors Housing SEPP for this land

No – there is no Site Compatibility Certificate under the Housing SEPP for this land

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***State Environmental Planning Policy (Industry and Employment) 2021***

This SEPP commenced on 1 March 2022 and comprises the translation of previous transport and infrastructure related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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***Chapter 3 Advertising and signage***

This Chapter aims:

- (a) to ensure that signage (including advertising):
  - (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in suitable locations, and
  - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

The Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.

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***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development***

The aim of this Policy is to improve the design quality of residential apartment development in NSW.

The Policy applies to new residential flat buildings, shop top housing or mixed use development with a residential accommodation component if

- (a) the development consists the erection of a new building, substantial redevelopment or refurbishment of an existing building or conversion of an existing building, and
- (b) the building is >2 storeys (excluding below ground levels provided for car parking) and
- (c) the building contains at >3 dwellings.

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***State Environmental Planning Policy (Planning Systems) 2021***

This SEPP commenced on 1 March 2022 and comprises the translation of previous planning system related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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***Chapter 2 State and Regional development***

The aims of this Chapter are:

- (a) to identify development that is State significant development,
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,
- (c) to identify development that is regionally significant development.

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***Chapter 4 Concurrences and consents***

Empowers the Planning Secretary to grant concurrences where a relevant concurrence authority fails to inform a consent authority of its decision concerning concurrence within allowed timeframes.

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**State Environmental Planning Policy (Primary Production) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous rural land and primary production related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 Primary Production and rural development**

The aims of this Chapter are:

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

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**State Environmental Planning Policy (Resilience and Hazards) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous coastal management, hazardous and offensive development and remediation of land related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 Coastal management**

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

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**Is this land within a Coastal Management Area?**

Yes - Mapping associated with the *Resilience and Hazards SEPP - Chapter 2 Coastal Management* identifies this land as being wholly within the coastal management area (the coastal zone).

This land contains the following Coastal Management SEPP area(s):

- Coastal Environment area
- Coastal Use Area

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**Chapter 3 Hazardous and Offensive Development**

The aim of this Chapter is to provide a mechanism for the consideration of applications for hazardous and offensive industries, by ensuring that the consent authority has sufficient information to assess any such applications, to impose conditions to reduce or

minimise any adverse impacts and to require advertising of applications for such developments.

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### **Chapter 4 Remediation of Land**

This Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The Chapter applies to the whole state, to ensure that remediation is permissible development and is always carried out to a high standard. It specifies when consent is required for remediation and lists considerations that are relevant when rezoning land and determining development applications.

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## **State Environmental Planning Policy (Resources and Energy) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous resources and energy related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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### **Chapter 2 Mining, petroleum production and extractive industries**

The aims of this Chapter are to

- (a) provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State;
- (b) facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive resources; and
- (c) to establish appropriate planning controls to encourage ecologically sustainable development.

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### **Site Verification Certificates**

A site verification certificate sets out the Planning Secretary's opinion that the land is or is not biophysical strategic agricultural land.

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### **Has a Site Verification Certificate been issued for this land?**

No – There is no Site Verification Certificate for this land.

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## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous transport and infrastructure related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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### **Chapter 2 Infrastructure**

The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services,
- (b) providing greater flexibility in the location of infrastructure and service facilities,
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land,
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development),
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development,
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.

### **Chapter 3 Educational establishments and child care facilities**

The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and
- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and
- (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.

#### **Site Compatibility Certificate**

This Policy enables a Site Compatibility Certificate to be issued by the Planning Secretary (clause 2.19) or the Planning Panel (clause 3.14) to permit additional uses of certain State land.

#### **Is there a Site Compatibility Certificate for this land?**

No – there is no Site Compatibility Certificate for this land.

### **(f) Draft State Environmental Planning Policies (DSEPPs)**

Draft State Environmental Planning Policies (DSEPPs) are to be notified within Section 149(2) Certificates from the time that the Draft is placed on public exhibition by the NSW Department of Planning and Environment.

**Note.** Draft State environmental planning policies may be downloaded from the NSW Department of Planning and Environment's website at-

<http://planning.nsw.gov.au>

Following is a list of Draft SEPPs that are relevant to this land.

### **Draft State Environmental Planning Policy - Implementation of Employment Zone Reforms**

#### **Changes to Business and Industrial Zones**

The Department of Planning and Environment (DPE) is currently exhibiting the translation of existing Business and Industrial zones into new Employment zones. The exhibition is being held on the DPE Planning Portal for 6 weeks from **31 May 2022** to **COB 12 July 2022**.

On 1 December 2022, Business and Industrial zones will be replaced by new Employment zones. The DPE is currently exhibiting details of how each NSW Local Environmental Plan, that includes a current Business or Industrial zone, will be amended to use the new Employment zones. The Explanation of Intended Effect (EIE) and a searchable web tool that displays the current and proposed zone

for land covered in this public exhibition is available on the [Planning Portal @ https://www.planningportal.nsw.gov.au/employment-zones](https://www.planningportal.nsw.gov.au/employment-zones) with further information available on the [Employment Zones Reform webpage @ https://www.planning.nsw.gov.au/employment-zones-reform](https://www.planning.nsw.gov.au/employment-zones-reform) .

The amendment proposes to translate zones within the *Richmond Valley Local Environmental Plan 2012* as follows:

Existing Business and Industrial Zones	Proposed Translation to New Employment Zones	Where
B1 Neighbourhood Centre	E1 Local Centre	All existing B1 zoned land
B2 Local Centre	E1 Local Centre	All existing B2 zoned land
B3 Commercial Core	E2 Commercial Centre	All existing B3 zoned land
IN1 General Industrial	E4 General Industrial	All existing IN1 zoned land except as provided below
	W4 Working Waterfront	Evans Head Fisherman's Cooperative and marina precinct at South Evans Head
	Deferred Matters*	All IN1 zoned land to which the Richmond Valley Council Regional Jobs Precinct applies
* <i>Deferred Matters will retain their IN1 General Industrial zoning post 1 December 2022 until a Planning Proposal has been prepared to implement the Regional Jobs Precinct Master Plan.</i>		

The amendment also includes Land Use Tables (LUTs) for each new Employment zone which comprises a translation and review of development permissibilities with the aim to facilitate employment growth.

If you have any questions, please contact the Department of Planning and Environment on **1300 420 596** or by email at [employment.zones@planning.nsw.gov.au](mailto:employment.zones@planning.nsw.gov.au) .

### **Making submissions**

Please note that submissions should be made via the search webforms on the Planning Portal, so that the detail can be linked to a specific site, employment zone or local government area. Submissions made in free format may not be able to be considered in detail. Given this exhibition applies across the state the preferred submission format prepopulates property identifiers to enable an efficient and clear alignment of submission to LEP so that the Department and Council can review feedback and finalise amendments by September.

## **2. ROAD WIDENING AND ROAD REALIGNMENT**

Council is required to identify whether the land is affected by a proposal to realign or widen a road. This would involve acquisition of part of the land to enable the road to be realigned or widened.

### ***Is the land affected by proposed road widening or road realignment?***

No - This land is not identified for future road acquisition, lane widening or road realignment.

**Note:** Council or the Roads and Maritime Services (RMS) may undertake road realignments and lane widening as part of routine road management. If this is the case they will negotiate purchase of the affected land under the Just Terms Compensation Act.

Furthermore, the need for road widening and/or road realignment is given a merits consideration during the assessment of development applications, and may be conditioned for dedication at no cost to the relevant authority.



### 3. COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RESTRICTIONS

**Note:** The following policies have been adopted by Council or directed to be enforced by Council by the NSW State Government with regard to the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulfate soils or any other risk (other than flood). An indication of the likely hazard may be given but further enquiry may be required to determine the extent of the hazard. Section 149 (5), where requested, may provide additional information.

#### (i) **Tidal Inundation or Subsidence**

Council has no policies with regard to these matters.

#### (ii) **Acid Sulfate Soil**

Clause 6.1 of *Richmond Valley Local Environmental Plan 2012* contains provisions regulating the excavation or disturbance of Acid Sulfate Soils (ASS). The clause refers to 5 classes of acid sulfate soils that have been mapped on the *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map*. Chapter H-2 of *Richmond Valley Development Control Plan 2021* contains a more detailed explanation of Acid Sulfate Soils; the development assessment process; the process for undertaking preliminary assessments; and to outline the information required when lodging a development application and preparing plans of management.

Whether ASS is likely on this land has been addressed under the Heading 1(a)(vii) of this certificate.

#### (iii) **Bushfire**

Section 4.14 (formerly section 79BA) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) does not permit a consent authority to grant consent to carry out development for any purpose (other than a subdivision of land that could lawfully be used for residential purposes or development for a special fire protection purpose) on bush fire prone land unless the consent authority:

- (a) is satisfied that the development conforms to the specifications and requirements of *Planning for Bushfire Protection*, or
- (b) the consent authority has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from bush fire.

Section 4.46 (formerly Section 91) of the EP&A Act declares development for:

- the subdivision of land, that could lawfully be used for residential purposes; and
- a special fire protection purpose,

to be integrated development requiring a Section 100B Certificate from the NSW Rural Fire Service under the *Rural Fires Act 1997*. Integrated development must be forwarded to the Commissioner of the Rural Fire Service for an authorisation under S.100B.

#### **Is this land identified as Bush Fire Prone Land?**

No - This land is not identified as Bush Fire Prone Land.

**Note.** The Bushfire Prone Land maps are available for viewing at Council's Offices. It may also be downloaded from the Council Website.

Further information on Bushfire Planning is available from the NSW Rural Fires Service website – [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au).

#### (iv) **Australian Noise Exposure Forcasts (ANEF)**

ANEF relates to noise emissions from Airports and is based upon the level of aircraft movement, types of aircraft, and duration of use of the airport.

Clause 6.12 of the *Richmond Valley Local Environmental Plan 2012* requires that certain types of development must not be granted development consent unless consideration of ANEF has been given and the it is satisfied that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2012-2000.

**Is this land affected by Aircraft Noise ANEF 25+?**

No - This land is not affected by a 25 ANEF contour, or higher.

**(v) Landslip Risk**

Clause 6.7 of the *Richmond Valley Local Environmental Plan 2012* contains an overlay provision regarding Landslip Risk. It references a map of slopes having grades greater than 18° (or 33%). The clause aims to assess the impact of development on slope stability and erosion.

**Is this land identified as having Landslip Risk?**

No - This land is not mapped as having Landslip Risk.

**Note.** Land other than that mapped as having steep grades may be subject to mass movement, erosion and landslip risk.

**(vi) Coastal Hazards**

Council has no formally adopted policy on coastal hazards. Notwithstanding, the *Richmond River Development Control Plan 2021* requires development in the coastal zone to be assessed for its compatibility with coastal hazards such as storm surge, potential climate change driven sea level rise, coastal inundation, and short & long term coastal erosion.

**Is this land likely to be affected by a Coastal Hazard?**

No – This land is not currently identified as being affected by a Coastal Hazard.

**4. FLOOD RELATED DEVELOPMENT CONTROLS**

Council has undertaken a number of studies within its Area that have modelled flood behaviour. Notwithstanding, these studies do not comprehensively cover the entire Council Area.

**Note.** A new Flood Study with a greater coverage of the floodplain and increased accuracy is in preparation. Completion of the Study was scheduled for the first quarter of 2022 but has been delayed so it can incorporate data from the March 2022 Floods.

Clause 5.21 of *Richmond Valley Local Environmental Plan 2012* requires consideration of flooding in all development applications on land with the Flood Planning Area (this is the area below the 1 in 100 year Average Recurrence Interval (ARI) flood event plus 500mm freeboard, more commonly known as the Flood Planning Level).

Before granting consent Council must be satisfied that the development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Chapter H-1 of *Richmond Valley DCP 2021* provides further policy advice with regard to flood development controls, while Council's Flood Risk Management Plans have details of the flood studies conducted, flood hazard categories, and flood development controls.

**Is this land considered to be with a Flood Planning Area?**

**Yes - The land is believed to be entirely below the Flood Planning level.**

Development on the land will be subject to flood related development controls.

The habitable floors of all residential accommodation is required to be elevated at least 500mm above the 1 in 100 year ARI flood event level. However, development of high risk locations, such as floodways, may be prohibitive.

**Note.** Flood information can be freely obtained from Council.

**Note.** It should not be assumed that land above a Flood Planning Area is flood free. There may be instances where development located above the Flood Planning Area, but still on the floodplain, must be assessed against the new guidelines "Considering Flooding In Land Use Planning Guideline (May 2021)".

## 5. DEVELOPER CONTRIBUTIONS PLANS

### **Richmond Valley Council Section 94A Contributions Plan 2010**

Richmond Valley Council adopted the Section 7.12 (formerly Section 94A) Contributions Plan on 15 June 2010, becoming effective from 1 July 2010. It levies up to a 1% contribution on development, based on the market cost of that development. The plan was amended on 8 January 2014 to revise the forecast income and therefore the works schedule, as well as include waiver provisions for exceptional circumstances such as compassionate grounds.

**Note.** The EP&A Act was entirely renumbered (decimalised) by Amendment commencing on 1 March 2018. Section 94A was renumbered as Section 7.12. Savings and transitional arrangements permit a reference to a former section of the Act to be a reference to the new section.

### **Richmond Valley Council Section 94 Heavy Haulage Contributions Plan 2013**

Richmond Valley Council adopted the Section 7.11 (formerly Section 94) Contributions Plan for Heavy Haulage on 15 October 2013, becoming effective from 23 October 2013. The Plan applies to any heavy haulage traffic generating development. The Plan levies a contribution of 0.072 cents per tonne per kilometre of haulage route.

It will be at the discretion of Council as to whether a development will be levied under Section 7.12 (formerly Section 94A) or the Section 94 Heavy Haulage Plan, as both types of contribution cannot be applied to the same development application.

**Note:** Council's Contributions Plans are freely available for download from Council's website at – <http://www.richmondvalley.nsw.gov.au> or may be viewed at Council's Offices in Casino and Evans Head.

**Note.** The EP&A Act was entirely renumbered (decimalised) by Amendment commencing on 1 March 2018. Section 94 was renumbered as Section 7.11. Savings and transitional arrangements permit a reference to a former section of the Act to be a reference to the new section.

## 6. STATE SIGNIFICANT DEVELOPMENT

State significant development is development that the Minister has declared to be State Significance Development under Division 4.7 (formerly Division 4.1 of Part 4) of the EP&A Act, and will therefore require Ministerial consent. This declaration can be stated in a:

- State environmental planning policy; or
- by order in the Government Gazette.

Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* declares classes of development to be State significance development, with Schedule 2 declaring identified sites to be State significant development.

### **Is this land declared to be State Significant Development?**

No - This land is not declared to be a State Significant development under Schedule 2 of the SEPP or by order published in the Gazette.

## 7. ANNUAL CHARGE FOR COASTAL PROTECTION SERVICES

Section 496B of the *Local Government Act 1993* enables a Council to levy an annual charge, for the provision of coastal protection services, on a rateable property that benefits from the services.

Section 553B of that Act enables a Council to levy, with the consent of the owner or any previous owner, an annual charge for maintenance of existing coastal protection works. An existing coastal protection work is one that was in place prior to 25 February 2011.

***Has an owner of this land consented to an annual charge for existing coastal protection works?***

No – There is no annual charge applying for existing coastal protection services.

## 8. MINE SUBSIDENCE

There is no land within the Richmond Valley Council area that is contained within a mine subsidence district.

## 9. DECLARED AREA OF OUTSTANDING BIODIVERSITY VALUE or CRITICAL HABITAT

A *Declared Area of Outstanding Biodiversity Value* means an area declared as such under Part 3 of the *Biodiversity Conservation Act 2016* and includes declared critical habitat under Part 3 of the *Threatened Species Conservation Act 1995*.

*Critical habitat* means habitat declared under Division 3 of Part 7A of the *Fisheries Management Act 1994*.

***Is there a Declared Area of Outstanding Biodiversity Value and/or declared Critical Habitat on this land?***

No – There is no Declared Area of Outstanding Biodiversity Value or declared Critical Habitat on this land.

**Note.** Land that is not declared to have outstanding biodiversity value or to be critical habitat may contain high environmental value (HEV) habitat which could contain threatened/endangered species or ecological communities.

Furthermore, the *Biodiversity Conservation Act 2016*, *Local Land Services Act 2013* and/or *Fisheries Management Act 1994* may require approvals or offsetting to clear native vegetation.

NSW Local Land Services should be consulted regarding biodiversity conservation of terrestrial habitats, and the Department of Primary Industries-Fisheries regarding biodiversity conservation of waterways and key fish habitats.

## 10. MATTERS ARISING UNDER THE CONTAMINATED LAND MANAGEMENT ACT 1997

The general object of the *Contaminated Land Management Act 1997* is to establish a process for investigating and (where appropriate) remediating land that the Environment Protection Authority (EPA) considers to be contaminated significantly enough to require regulation Division 2 or Part 3.

Section 59 of the Act sets out the terms under which a local council must be informed that: land has been declared, or ceases to be declared, significantly contaminated land; a management order has been served or revoked for the land; whether the EPA has given approval, or withdrawn its approval, for a voluntary management proposal on the land; or whether an ongoing maintenance order has been served or revoked for the land.

To the extent that Council has been notified by the EPA-

***Is this land declared Significantly Contaminated Land?***

No – The land is not declared to be Significantly Contaminated Land.

***Is this land subject to a management order?***

No – There are no management orders on this land.

***Is this land subject of an approved voluntary management proposal?***

No – There are no voluntary management proposals for this land.

***Is this land subject to an ongoing maintenance order?***

No – There are no ongoing maintenance orders for this land.

***Is this land subject of a site audit statement?***

No – There is no site audit statement for this land.

**Note:** Absence of notification from the EPA under Section 59 of the Contaminated Land Management Act 1997 does not necessarily mean that the land is not subject to some type of contamination.

**11. PROPERTY VEGETATION PLANS**

The *Native Vegetation Act 2003* provided for the management of native vegetation in NSW. The Act enabled the clearing of native vegetation under a number of mechanisms. One such mechanism was an approved Property Vegetation Plan. Another function of the Act was to provide for incentives for the conservation of native vegetation.

The *Native Vegetation Act 2003* was repealed under Biodiversity Conservation Reforms that commenced on 25 August 2017. Savings provisions contained in clause 60 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* have retained all Property Vegetation Plans that were in force prior to the commencement of the reforms.

The following information has been supplied to Council to notify within this certificate.

***Is there a current Property Vegetation Plan (PVP) for this land?***

No – There is no Property Vegetation Plan for this land.

***Is there a Remediation Order over this land?***

No – There is no Remediation Direction applying to this land.

**12. TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006**

The *Trees (Disputes Between Neighbours) Act 2006* was introduced as a mechanism for the Court to order the remedy, restrain or prevention of damage to property on land as a result of trees. It also addresses disputes regarding hedges over 2.5 metres high that obstruct sunlight or views.

***Is there an Order under the Act applying to this land?***

No – There are no orders under the *Trees (Disputes Between Neighbours) Act 2006* applying to this land.

**13. BIODIVERSITY STEWARDSHIP SITES (formerly BIOBANKING AGREEMENTS) and NATIVE VEGETATION CLEARING SET-ASIDE AREAS**

Biodiversity Stewardship Agreements (formerly known as Biobanking Agreements) (offset sites) and Native Vegetation Clearing set-aside areas are established to protect biodiversity as offsets. They apply in perpetuity on the land, where they exist.

Set-asides are established on the same land holding where the clearing occurs. Set-asides are identified by landholders in conjunction with the Local Land Services and listed on a public register. The landholder is responsible for management of the set-aside area.

Offset sites under the Biodiversity Offsets Scheme are secured using Biodiversity Stewardship Agreements. These are voluntary in-perpetuity agreements between a landholder and the Minister for the Environment. The agreements are registered on the title of the land and listed in a public register. Stewardship agreements generate biodiversity credits, representing the gain in biodiversity achieved by protecting and managing the land. These credits can be sold to development proponents to offset biodiversity impacts elsewhere.

The existence of an offset site and/or Native Vegetation Set-aside area may restrict the land, in terms of its use, and may require continued management actions by the owner.

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***Is there a Biodiversity Stewardship Site (or a Biobanking Site) on this land?***

No – This is not a Biodiversity Stewardship Site.

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***Is there a Native Vegetation Clearing Set-Aside Area on this land?***

No – This is not a Native Vegetation Clearing Set-Aside Area.

## 14. BIODIVERSITY CERTIFICATION

The NSW Government provides for biodiversity certification of land under Part 8 of the *Biodiversity Conservation Act 2016*, and includes biodiversity certified land certified under Part 7AA of the *Threatened Species Conservation Act 1995*.

Biodiversity Certification of land has the effect of:

(1) **State Significant Infrastructure under Part 5.1 of the Planning Act**

The environmental assessment requirements for the approval of State significant infrastructure under Part 5.1 of the *Environmental Planning and Assessment Act 1979* do not require an assessment of the impact of the infrastructure on biodiversity to the extent that the infrastructure is carried out or proposed to be carried out on biodiversity certified land.

(2) **Development (including State significant development) under Part 4 of the Planning Act**

An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the *Environmental Planning and Assessment Act 1979*

(3) A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the *Environmental Planning and Assessment Act 1979*, is not required to take into consideration the likely impact on biodiversity of the development carried out on that land.

(4) **Activities under Part 5 of the Planning Act**

An activity to which Part 5 of the *Environmental Planning and Assessment Act 1979* applies which is carried out or proposed to be carried out on biodiversity certified land is taken, for the purposes of Part 5 of that Act, to be an activity that is not likely to significantly affect any threatened species or ecological community under the *Biodiversity Conservation Act 2016*, or its habitat, in relation to that land.

(5) A determining authority under Part 5 of the *Environmental Planning and Assessment Act 1979* is not required under that Part to consider the effect on biodiversity of an activity to the extent that it is carried out on biodiversity certified land.

**Note.** Part 5A of the *Local Land Services Act 2013* provides that biodiversity certified land is categorised as category 1-exempt land, and accordingly the land is not a regulated rural area of the State under that Part and that Part does not impose any restriction on the clearing of native vegetation on the land.

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***Is this land Biodiversity Certified?***

No – This land is not Biodiversity Certified.

## 15. DIRECTIONS UNDER PART 3A OF THE ACT

Part 3A of the *Environmental Planning and Assessment Act 1979* was repealed in 2011. Notwithstanding, Section 75P(2)(c1) provided a mechanism for the Minister to issue directions that provisions of an environmental planning instrument, that prohibit or restrict the carrying out of a project or a stage of a project, on land under Part 4 of the Act does not have effect.

**Note.** These directions have been saved despite repeal of Part 3A.

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***Is there a Part 3A Direction applying to this land?***

No – There are no Part 3A Ministerial Directions applying to this land.

## 16. PAPER SUBDIVISION INFORMATION

The NSW Government released new guidelines to assist the development of land trapped in 'paper subdivisions'. These are lots that are subdivided on paper, but have not been developed due to their irregular subdivision patterns, fragmented ownership and/or a lack of appropriate zoning and servicing. In some cases, the subdivisions date back to the 1800s and can be as small as 200m<sup>2</sup> in area and less than 10m in width – sometimes with no land between lots for 'common' areas such as roads and footpaths.

A process has been established under Schedule 7 of the *Environmental Planning and Assessment Act 1979* to enable the creation of a new subdivision plan for these areas by amalgamating small lots into more viable parcels and allocating land for infrastructure and services.

A proposed Development Plan, being the new subdivision layout, would be put to a vote of landowners. If 60% of landowners and the owners of 60% of the land agree to the Development Plan it will be adopted, and the Minister will make a Subdivision Order that will empower an Authority to manage the development and re-subdivision of the land.

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***Is there a Development Plan applying to this land?***

No – There is no Development Plan applying to this land.

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***Is there a Subdivision Order applying to this land?***

No – There is no Subdivision Order applying to this land.

## 17. LOOSE-FILL ASBESTOS INSULATION

NSW Fair Trading maintains a register of residential premises known to have loose-fill asbestos ceiling insulation installed.

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***Is this land identified on the Loose-fill Asbestos Insulation Register?***

No – Council has not received notification from NSW Fair Trading that this land has been identified on the Loose-fill Asbestos Insulation Register.

**Note:** The Loose-fill Asbestos Insulation register can be searched at the following web address

[http://www.fairtrading.nsw.gov.au/ftw/Tenants\\_and\\_home\\_owners/Loose\\_fill\\_asbestos\\_insulation/Public\\_Search/LFAI\\_Public\\_Register.page?](http://www.fairtrading.nsw.gov.au/ftw/Tenants_and_home_owners/Loose_fill_asbestos_insulation/Public_Search/LFAI_Public_Register.page?)

## 18. AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS

Part 4 of the *Building Product (Safety) Act 2017* enables an **affected building notice** to be issued over a building where a banned building product has been used in the building for a use that is prohibited by the building product use ban. An **building product rectification order** may be issued over such a building to do such things as are necessary to:

- eliminated or minimise a safety risk posed by the use of the banned building product; and/or
- to remediate or restore the building following the elimination or minimisation of the safety risk.

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***Is there an Affected Building Notice applying to this land?***

No – Council is not aware of an affected building notice that is in force in respect of this land.

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***Is there a Building Product Rectification Order (or an intention to make such an order) applying to this land?***

No – Council is not aware of:

- a building product rectification order that is in force in respect of this land and has not been fully complied with, or
- any notice of intention to make a building product rectification order in respect of the land.

**Note:** More information on non-conforming building products can be obtained from-  
[http://www.fairtrading.nsw.gov.au/ftw/Consumers/Product\\_and\\_service\\_safety/Non\\_conforming\\_building\\_products.page](http://www.fairtrading.nsw.gov.au/ftw/Consumers/Product_and_service_safety/Non_conforming_building_products.page)

## ADDITIONAL ADVICE SUPPLIED UNDER SUBSECTION (5)

Section 10.7(5) (formerly known as Section 149(5) or 149 Part 5) provides that a council may, in a Planning Certificate, include advice on such other relevant matters affecting the land of which it may be aware.

Additional advice is provided in accordance with Subsection (5) and supplied in good faith. Council accepts no liability for the advice given (see subsection (6)). Specific enquiry should be made where doubt exists.

### A. WHERE THE LAND IS ZONED RU1 OR E3, CAN IT BE SUBDIVIDED TO CREATE ADDITIONAL DWELLING-HOUSE OPPORTUNITIES?

Clause 4.1 of the *Richmond Valley Local Environmental Plan 2012* provides for the subdivision of land to create lots where each lot created is not less than the minimum size shown on the *Richmond Valley Local Environmental Plan 2012 Lot Size Map* for that land. There are several exceptions to this rule such as for special purpose subdivisions (cl.4.2A), and rural subdivision lots (cl.4.2), however, neither of these will create dwelling opportunities for the lots created.

Clause 4.2B of the LEP provides for dwelling opportunities on rural land. This clause only applies to land within Zone RU1 Primary Production and Zone C3 Environmental Management. The clause acknowledges that lots created (or that could be created) under clause 4.1, which meet the minimum lot size, will have a dwelling opportunity.

#### **Could this land be subdivided so that each lot has a dwelling opportunity?**

The land is contained within Zone RU1 Primary Production and/or Zone C3 Environmental Management. Each of these rural zones permits a dwelling house to be erected on a lot that meets the minimum lot size for that land.

The land may only be subdivided if each lot to be created is equal to, or greater than, the minimum lot size for subdivision as it applies across the land. The Minimum Lot Size for this land is:

- 40 ha - Minimum Lot Size

Note. The land has an area of 7545.000000 SqM. As a general rule of thumb, divide this land area by the minimum lot size and if the result is greater than 2 there may be an opportunity to subdivide.

### B. DWELLING OPPORTUNITY

A Dwelling Opportunity is where the *Richmond Valley Local Environmental Plan 2012* legally recognises that development consent may be granted to have a dwelling house on that land.

#### **Rural Zones - Rural Zones RU1 Primary Production and C3 Environmental Management**

Zones RU1 and E3 permit dwelling houses, but Clause 4.2B of the *Richmond Valley Local Environmental Plan 2012* restricts which land may be granted development consent for a dwelling. This is known as a "Dwelling Opportunity".

The clause provides for a dwelling opportunity under the following circumstances:



- (a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
- (b) a lot created before this Plan commenced and on which the erection of a dual occupancy (attached) or a dwelling house was permissible immediately before that commencement, or
- (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dual occupancy (attached) or a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
- (d) a lot on land that is identified as 'Dwelling opportunity' on the Dwelling Opportunity Map.

### ***Is there a Dwelling Opportunity (Zones RU1 and C3) on this land?***

Yes (Shared) - This land (that component within Zones RU1 and/or C3) has a recognised dwelling opportunity under clause 4.2B of the LEP which is shared with other land. This opportunity will be/has been taken up by the first dwelling to be erected within the boundaries of the shared opportunity.

**Note.** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

### ***Additional notes regarding this Dwelling Opportunity Advice***

Nil

**Note:** Dwelling-house opportunity advice is subject to obtaining development consent. It is a guide as to whether the planning scheme will permit a dwelling house on the land. It is not an assessment of whether the land is suitable for a dwelling.

## **C. DUAL OCCUPANCY AND SECONDARY DWELLINGS**

Both Dual Occupancy and Secondary Dwellings consist of having 2 dwellings on the same land, however, secondary dwellings cannot be subdivided and are restricted by clause 5.4 of the *Richmond Valley Local Environmental Plan 2012* to a floor area not exceeding 60m<sup>2</sup>, or 25% of the principal dwellings floor area, whichever is the greater.

The following table identifies in what zones dual occupancy and secondary dwellings are permitted:

LEP ZONES	Dual Occupancy	Secondary Dwelling
<b>Rural</b>		
RU1 Primary Production	Permissible <sup>1a</sup>	Prohibited <sup>3</sup>
RU3 Forestry	Prohibited	Prohibited
RU5 Village	Permissible	Permissible
<b>Residential</b>		
R1 General Residential	Permissible	Permissible
R5 Large Lot Residential	Permissible <sup>1a</sup>	Permissible
<b>Business</b>		
B1 Neighbourhood Centre	Permissible <sup>2</sup>	Permissible <sup>2</sup>
B2 Local Centre	Permissible <sup>2</sup>	Permissible <sup>2</sup>
B3 Commercial Core	Permissible <sup>2</sup>	Permissible <sup>2</sup>
<b>Industrial</b>		
IN1 General Industrial	Prohibited	Prohibited

Special Purpose Zones		
SP1 Special Activities	Prohibited	Prohibited
SP2 Infrastructure	Prohibited	Prohibited
<b>Recreation</b>		
RE1 Public Recreation	Prohibited	Prohibited
RE2 Private Recreation	Prohibited	Prohibited
<b>Environment protection</b>		
C1 National Parks and Nature Reserves	Prohibited	Prohibited
C2 Environmental Conservation	Prohibited	Prohibited
C3 Environmental Management	Permissible <sup>1b</sup>	Prohibited <sup>3</sup>
<b>Waterway</b>		
W1 Natural Waterways	Prohibited	Prohibited
W2 Recreational Waterways	Prohibited	Prohibited
<b>Note 1a</b> Dual Occupancy (Attached) and Dual Occupancy (Detached) are permitted. Minimum land area requirements apply. Subject to land having a dwelling opportunity. Detached dual occupancy subject to maximum separation of 100m (between the dwellings), and other considerations (see Clause 4.2B of the <i>Richmond Valley LEP 2012</i> ).		
<b>Note 1b</b> Dual Occupancy (Attached) is only permitted. Minimum land area requirements apply. Subject to land having a dwelling opportunity.		
<b>Note 2</b> Would have to be undertaken as part of Shop top housing.		
<b>Note 3</b> Secondary Dwellings are prohibited but can be undertaken as dual occupancy, see also Note 1.		
<b>Note 4</b> Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.		

### **Dual Occupancy in Rural Zones - Zone RU1 Primary Production, Zone R5 Large Lot Residential, and Zone E3 Environmental Management**

Clause 4.2B of the *Richmond Valley Local Environmental Plan 2012* provides that:

- dual occupancy is permissible in Zone RU1 Primary Production & Zone R5 Large Lot Residential (as attached or detached); and
- dual occupancy (attached) is permissible in Zone E3 Environmental Management.

The clause provides that dual occupancy is only permitted in these zones if the land has a dwelling opportunity under the clause. Minimum lot size standards apply, see clause 4.1B.

Detached dual occupancy in Zones RU1 and R5 may only be granted development consent if:

- (a) the development will not impair the use of the land for agriculture or rural industries in the locality, and
- (b) if it is practicable, each dwelling will use the same vehicular access to and from a public road, and
- (c) any dwelling will be situated within 100 metres of each other, and
- (d) the land is physically suitable for the development, and
- (e) the land is capable of accommodating the on-site disposal and management of sewage for the development, and
- (f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.

Chapter A-2 of the *Richmond Valley Development Control Plan 2015* provides details on how Council defines attachment for the purposes of rural Dual Occupancy (Attached).

Refer to Item B of this certificate for details on the rural dwelling opportunity status of this land.

## D. TREE PRESERVATION ORDER

Part 3 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* creates a permit system to clear vegetation identified by a Development Control Plan (DCP). This may also be known as a 'Tree Preservation Order' or 'TPO'.

The *Richmond Valley DCP 2021* currently does not include provisions to activate a vegetation clearing permit system. Notwithstanding, the clearing of vegetation may require approvals under the *Biodiversity Conservation Act 2016* where:

- the area of clearing will exceed designated thresholds;
- the vegetation has been identified on the Biodiversity Values Map; or
- a 'Test of Significance' shows there is likely to be a significant impact on biodiversity (in particular Threatened Species).

### ***Is there a DCP containing vegetation clearing restrictions (TPO) applying to this land?***

No – There is no TPO applying within the Richmond Valley Council area.

***Note. This advice does not authorise clearing work in contravention of any Act or law concerned with soil, erosion, protection of catchments, waterways and riparian zones, protection of habitat, protection of native vegetation, protection of threatened species or ecological communities, or the like.***  
***Please make reference to the Biodiversity Conservation Act, Local Land Services Act, Fisheries Management Act, Coastal Protection Act, and Water Management Act.***

## E. POTENTIAL CONTAMINATION

The following advice is provided as to whether the land has the potential to be contaminated from a current or past land use activity. The range of matters covered by this advice include where-

- Council has received notice from the Environment Protection Authority (EPA) that the land is significantly contaminated
- the land is located within a 200 metre investigation zone for a Cattle Tick Dip Site
- the land was part of the Evans Head Aerodrome
- the land is identified as potentially contaminated land within Council's register
- Council has received notice from NSW Fair Trading that the premises is identified on the Loose-fill Asbestos Insulation Register
- Council has received records from NSW Public Works Department regarding asbestos contamination from properties affected by the 2019 bushfires.

**Note.** This response has been made in regard to information Council has to hand on the likely contamination of the land. Advice provided should not be interpreted as a guarantee that contamination does or does not exist on the land. It is recommended that a preliminary investigation under in accordance with NSW EPA statutory guidelines be undertaken.

**Note.** Where any person becomes aware of potential contamination on land it should be reported to Council and the Environment Protection Authority (EPA) for further investigation.

### ***Is there potential for the land to be contaminated?***

No – This land is not known to be contaminated.

## F. OTHER GENERAL MATTERS TO BE NOTED

### **(1) Right to Farm**

Richmond Valley Council respects the right of persons to carry out legitimate rural and agricultural uses and practices on rural lands.

Council will not support any action to interfere with the legitimate rural and agricultural use of land.

Intending purchasers are advised that legitimate and agricultural uses of land may include:

Logging and milling of timber; livestock feed lots; piggeries; dairies; chicken farms; clearing and cultivation of land; bush fire hazard reduction measures; construction of fire breaks; construction of dams, drains and contour banks; fencing; use of agricultural machinery (for example tractors, chainsaws, motor bikes etc.); pumping and irrigation; pesticide spraying (including herbicides, insecticides, fungicides etc.); aerial spraying; animal husbandry practices (for example castration, dehorning etc.); driving livestock on roads; silage production; construction of access roads and tracks; slashing, mowing or harvesting vegetation; planting of woodlots; forestry; tea tree oil distillation; quarrying; mining and the like.

Intending purchasers of rural land who consider they may have difficulty in living with legitimate rural and agricultural practices being carried out on adjacent land should seriously consider their position.

## **(2) Electricity**

It should not be assumed that reticulated electricity is available in all areas of the Council, or that the presence of powerlines on or near a property can service development on the land. Furthermore, there will be instances where subdivisions have not required connection to mains power due to the prohibitive cost of providing electrical infrastructure, relative to potential alternative power supply options.

Conditions of supplying mains power should be ascertained from Essential Energy.

## **(3) Building**

From the 1 July 1998 all building related matters became incorporated into the *Environmental Planning and Assessment Act 1979*. It is an offence to carry out any building work in the Council area without Council consent to a development application and construction certificate. Notwithstanding, some development types are classified as exempt development or complying development under subject to meeting predefined requirements.

Reference should be made to *SEPP (Exempt and Complying Development Code) 2008* and Schedules 2 & 3 of the *Richmond Valley Local Environmental Plan 2012* for a list of exempt and complying development types and their requirements.

For further information please contact Council's Development Assessment Section.

## **(4) Water and Sewer Notification(s)**

Council's Water and Sewer Section have requested that information relating to the following be notated within a Planning Certificate. These include whether:

- the owner or a former owner has waived access to Sewer Availability on the land;
- there is a Non-Compliant Boundary Shaft issue (specifically where it relates to the boundary shaft being located under a building or structure on the land); and/or
- there is a Capitalised Consumption Charge applying to the land.

### ***Is there a Water/Sewer Notification applying to this land?***

No - There are no notifications (regarding Sewer Availability waived, a Non-Compliant Boundary Shaft (which is located under built construction), or Special Capitalised Water Consumption Charges) to declare.

## **(5) Any other matters specifically concerning this land**

There are no additional matters to be noted in this certificate.

**SIGNATURE**

For further information regarding this Certificate, please contact Council's Customer Service on (02) 66600300 or email [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)



Vaughan Macdonald  
**General Manager**



Your Reference: EC2227

Our Reference: Certificate No.PL2023/0098 Land ID.20384

Contact: Customer Service

To: EPM Projects Pty Ltd  
Suite 7.02  
67 Albert Avenue  
CHATSWOOD NSW 2067

Richmond Valley Council

# Planning Certificate

under Section 10.7 (formerly Section 149) of the *Environmental Planning and Assessment Act 1979*

**Certificate No** **PL2023/0098**

Receipt Number 2107043

Date Certificate was Issued 22 August 2022

## Property Description

Lot/Section/DP/SP/EP etc

**Lot 501 DP 755624**

Land Address

**Broadwater Public School 9 Byrnes Street  
BROADWATER NSW 2472**

Parish

**Riley**

Valuation/Assessment No

**3755000001**

Property ID

**136040**

Land ID

**20384**

Land Area

**663.9000 Square Metres**

## ADVICE SUPPLIED UNDER SUBSECTION (2)

Advice under Section 10.7(2) (formerly known as Section 149(2) or 149 Part 2) of the *Environmental Planning and Assessment Act 1979* is prescribed by Clause 279 and Schedule 4 of the *Environmental Planning and Assessment Regulation 2000*.

A copy of the prescribed matters are attached at Appendix 1 to this Certificate.

Richmond Valley Council, Cnr Walker Street & Graham Place, (Locked Bag 10) Casino NSW 2470

t: 02 6660 0300 f: 02 6660 1300 e: council@richmondvalley.nsw.gov.au

w: [richmondvalley.nsw.gov.au](http://richmondvalley.nsw.gov.au)  RichmondValleyCouncil ABN 54 145 907 009

# 1. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS AND ZONINGS

## (a) Local Environmental Plan (LEP)

### ***What is the applicable LEP?***

#### **Richmond Valley Local Environmental Plan 2012**

This Plan was notified on the NSW Legislation website on 9 March 2012 and commenced on 21 April 2012. It applies to the entire Richmond Valley Council Local Government Area, which is identified on the Land Application Map. It has had several amendments since it commenced.

A current version of the LEP and mapping (as PDF map sheets) are available on the NSW Legislation website –

<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+98+2012+cd+0+N>

**Note.** The local environmental plan is freely available for download from the NSW Legislation website at –  
[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)  
 or may be freely viewed at Council's Offices in Casino and Evans Head.

## (i) Land Zoning

The land is contained within the following Land Zones. Attached to each zone is a land use table that identifies the objectives of the zone and the purposes for which development:

- (a) may be carried out **without development consent**,
- (b) may be carried out **only with development consent**, or
- (c) is **prohibited**.

### ***What is the applicable Land Zone?***

#### **Zone RU1 Primary Production**

##### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.

##### **2 Permitted without consent**

Extensive agriculture; Forestry; Home occupations; Horticulture; Viticulture

##### **3 Permitted with consent**

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Funeral homes; Group homes; Helipads; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Hospitals; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Kiosks; Landscaping material supplies; Moorings; Open cut mining; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Signage; Turf farming; Veterinary hospitals; Water recreation structures;

- 4 **Water supply systems**  
**Prohibited**  
 Advertising structures; Any other development not specified in item 2 or 3

**Note.** A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

*State Environmental Planning Policy (Affordable Rental Housing) 2009* (including provision for secondary dwellings)

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

*State Environmental Planning Policy (Infrastructure) 2007*—relating to infrastructure facilities such as those that comprise, or are for, air transport, correction, education, electricity generating works and solar energy systems, health services, ports, railways, roads, waste management and water supply systems

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

*State Environmental Planning Policy (Rural Lands) 2008*

*State Environmental Planning Policy No 33—Hazardous and Offensive Development*

*State Environmental Planning Policy No 50—Canal Estate Development*

*State Environmental Planning Policy No 62—Sustainable Aquaculture*

*State Environmental Planning Policy No 64—Advertising and Signage*

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**Does Schedule 1 of the LEP permit additional uses on this land?**

No

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**(ii) Minimum Lot Size (MLS) for subdivision**

Clause 4.1 of the LEP provides that the size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

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**What is the applicable Minimum Lot Size?**

- 40 hectare

**Note.** Despite the Minimum Lot Size identified above, there are several exceptions provided for within Part 4 of the LEP, relating to strata, community title, dual occupancy, commercial development, and rural subdivisions. Refer to the appropriate clauses in Part 4 of the LEP for details.

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**(iii) Maximum Building Height**

Clause 4.3 of the LEP provides that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. Heights are measured above natural ground level.

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**What is the maximum Height of Buildings?**

- Maximum building height of 8.5 metres above the natural ground level.

**Note.** Despite the maximum building height identified above, clause 4.6 provides for an exception to this building height to be granted development consent where it can be demonstrated that the standard is unreasonable or unnecessary in the circumstances of the case.

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**(iv) Land Reserved for Acquisition**

Clause 5.1 of the LEP reserves land, identified by Public Authorities, for future infrastructure or other public purposes. The clause identifies the land zoning, the future use of the land, and the authority responsible for the acquisition.

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**Is any part of this land reserved for acquisition?**

No – There is no part of this land reserved for acquisition.



## (v) **Natural Resource Overlays**

A number of overlays have been employed within *Richmond Valley Local Environmental Plan 2012* to identify natural resources. The purpose for the overlays is to trigger an assessment process for any development application that proposes works or activities within the boundaries of the mapped natural resource. Each natural resource has its own clause which identifies the appropriate heads of consideration for that constraint.

### **Has a Natural Resource (NRS) been identified on this land?**

#### **Yes - Riparian land and Watercourses**

NRS - Riparian land and Watercourses consist of mapped key fish habitats, as identified by the Department of Primary Industries (Fisheries), which have been depicted on the *Richmond Valley Local Environmental Plan 2012 Riparian Land and Waterways Map*. The mapping comprises of creeks, rivers, estuaries, drains and low lying areas including a 40 metre buffer to capture riparian lands.

The aim of identifying these riparian lands and watercourses is to mitigate impacts from development on waterway health for aquatic organisms.

Clause 6.8 of the LEP contains further details on criteria to be considered as part of the development assessment process.

#### **Yes - Terrestrial Biodiversity**

NRS - Terrestrial Biodiversity consists of mapped native vegetation and habitat corridors on the *Richmond Valley Local Environmental Plan 2012 Terrestrial Biodiversity Map*.

The aim of identifying terrestrial biodiversity is to mitigate impacts from development on biodiversity.

Clause 6.6 of the LEP contains further details on criteria to be considered as part of the development assessment process.

<p><b>Note.</b> The NRS overlays do not trigger the need for development consent. They only highlight the need to undertake additional assessment of applications that are lodged for land uses that do require development consent.</p>
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## (vi) **Exempt and Complying Development**

### **What is Exempt development?**

Exempt development is minor development that needs no development consent or any other impact assessment (such as under Part 5 of the *Environmental Planning and Assessment Act 1979*).

### **What is Complying Development?**

Complying Development is development that can be undertaken with a Complying Development Certificate. A Complying Development Certificate (CDC) may be obtained from Council or an Accredited Certifier, subject to pre-determined conditions. A CDC may only be issued if all the specified requirements are satisfied but such a certificate can be acquired within 10 working days.

Most exempt and complying development is regulated under *State Environmental Planning Policy (Exempt and Complying Development Code) 2008*. However, additional types of exempt and complying development are provided within:

- Schedules 2 and 3 (respectively) of the ***Richmond Valley Local Environmental Plan 2012***
- ***State Environmental Planning Policy (Infrastructure) 2007***
- ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

**(vii) Acid Sulfate Soil (ASS)**

Clause 6.1 of the LEP contains provisions that regulate excavation works and drainage works within mapped Acid Sulfate Soil (ASS) areas. These soils have been identified as Classes 1, 2, 3, 4 and 5 on the *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map*.

**What are Acid Sulfate Soils?**

Acid Sulfate Soils (ASS) are a naturally occurring soil layer found within the coastal zone resulting from previous higher ocean levels. When exposed to air these soils oxidise to create sulfuric acid (H<sub>2</sub>SO<sub>4</sub>). Acid when released into the environment has the potential for environmental and economic impacts. Therefore, best management practice is to avoid exposing the soil to air.

**Works do not require development consent under Clause 6.1 if:**

- (a) the works involve disturbance of less than one tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins), foundations or flood mitigation works), or
- (b) the works are not likely to lower the watertable.

**Is there Acid Sulfate Soil (ASS) identified on this land?****Yes - Class 3 Acid Sulfate Soil**

The *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map* identifies the potential for Class 3 Acid Sulfate Soil to be found on or beneath this land.

Notwithstanding any other provision of the LEP, Clause 6.1 requires development consent to do any works more than 1 metre below the natural ground surface, or works by which the watertable is likely to be lowered more than 1 metre below the natural ground level.

**Note.** *Richmond Valley Local Environmental Plan 2012* and the Acid Sulfate Soil Map are freely available for download from NSW Legislation website at –

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

or may be viewed at Council's Offices in Casino and Evans Head.

**(viii) Environmental Heritage?**

**Environmental heritage** is defined within the *Heritage Act 1977* as meaning those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.

Clause 5.10 of the *Richmond Valley Local Environmental Plan 2012* provides for the protection of heritage items identified within Schedule 5 and on the Heritage Map.

Furthermore, the *Heritage Act 1977* provides for the protection of items of State heritage significance by listing them on the State Heritage Register.

**Is there a Heritage listing on this land?**

Nil – There is no listed heritage on this land.

**Is there listed Heritage in the vicinity of this land?**

Clause 5.10(5) of the LEP provides that a heritage management document may be required for any development within the vicinity of a listed heritage item to assess the extent the proposed development would have on the listed item's heritage significance. Any listed heritage items located within 50 metres of this land is identified below:

Nil - There are no listed heritage items adjoining this land.

Suggested websites for additional information:	
Register of the National Estate	<a href="http://www.environment.gov.au/heritage/register/index.html">http://www.environment.gov.au/heritage/register/index.html</a>
Heritage Inventory and State Heritage Register of NSW Heritage Office (includes State and local heritage items)	<a href="http://www.heritage.nsw.gov.au">http://www.heritage.nsw.gov.au</a>
Aboriginal Heritage Information Management System	<a href="http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm">http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm</a>

### (ix) **Minimum Land Dimensions For a Dwelling**

The *Environmental Planning and Assessment Regulation 2000* requires that a Planning Certificate provide advice on “whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed”.

#### **Rural Zoned Land**

The local environmental plan permits dwelling houses in the rural zones of RU1 Primary Production and E3 Environmental Management, with consent, however not all lots within these zones have a dwelling opportunity. Clause 4.2B restricts which allotments, in Zone RU1 Primary Production and Zone E3 Environmental Management, may have a dwelling erected upon them. There are several provisions used to determine if a 'dwelling opportunity' exists for an allotment.

One provision provides that a dwelling opportunity exists for each allotment having an area greater than the subdivision minimum lot size identified for the land on the Lot Size Map. However, there are other provisions, and the Dwelling Opportunity Map, that provide for additional means of determining if a lot has a dwelling opportunity.

**Note:** The above advice is given in regards to land dimensions only and has not assessed whether the land has a dwelling opportunity, whether the subject land has an existing dwelling, or whether the subject land may be suitable for a dwelling. The only means of guaranteeing that a dwelling will be granted consent is to obtain a development consent.

### (x) **Conservation Areas (Environmental Protection Areas)**

A conservation area is reference to an *environmental protection* classification under a statutory document.

#### **Has a Conservation Area been identified on this land?**

Yes - This land contains the following conservation area(s):

- Coastal Management SEPP - Environment Area

**Note<sup>1</sup>:** Consideration has only been given to whether the land contains Land Zone C1, C2, C3, W1, or declared area of outstanding biodiversity value (formerly Critical Habitat)(Biodiversity Conservation Act 2016), Critical Habitat (Fisheries Management Act 1994), a wilderness area, Conservation Agreement, Biodiversity Stewardship Agreement (or Biobanking Agreement) or Native Vegetation clearing set asides, or Coastal Zone (Biodiversity & Conservation SEPP).

Natural Resource Overlays, as mapped within Clauses 6.6, 6.7, 6.8, 6.9 and 6.10, may also apply to this land but have been excluded from this assessment.

**Note<sup>2</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

### (xi) **Land located at the Glebe, Coraki**

Not Applicable - This land is not located in the area known as the Glebe, Coraki.

**(xii) Land located within the Historic New Italy Village Area**

Not Applicable - This land is not located within the Historic New Italy Village Area.

**(b) Draft Local Environmental Plan(s) (DLEP)**

Preparation of a Draft local environmental plan (DLEP) requires a Planning Proposal to be publicly exhibited, pursuant to Section 3.34(2)(c) of the *Environmental Planning and Assessment Act 1979*, to obtain community feedback. Planning Proposals are summarised overviews of the expected outcomes from a DLEP. It also addresses all the statutory considerations that the Department of Planning and Environment require.

**Are there any Draft Local Environmental Plans applying to this land?**

No – There are no Draft Local Environmental Plans relevant to this land.

**Note.** Planning Proposals that have been placed on public exhibition are freely available for download from Council's website at –

<http://www.richmondvalley.nsw.gov.au>

or may be viewed at Council's Offices in Casino and Evans Head.

Once a draft LEP has been Notified on the NSW Legislation Website it will be deleted from Council's website with amendments being incorporated into the consolidated LEP.

**(c) Development Control Plan (DCP)**

The principal purpose of a development control plan is to provide guidance on carrying out development by:

- giving effect to the aims of any environmental planning instrument that applies to the development,
- facilitating development that is permissible under any such instrument,
- achieving the objectives of land zones under any such instrument, and
- identifying advertised development.

**What is the applicable DCP?****Richmond Valley Development Control Plan 2021 (RVDCP21)**

This DCP was adopted by Council on 22 June 2021 and became effective from 1 August 2021. It applies to the entire Richmond Valley Council area.

The DCP complements the *Richmond Valley Local Environmental Plan 2012* by providing development standards, assessment criteria, guidelines and policy on a range of subjects.

**Note.** The development control plan is freely available for download from the Council website at -

<https://richmondvalley.nsw.gov.au/building-and-planning-services/strategic-planning/development-control-plan/>; or

from the NSW Planning Portal at-

[https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub\\_pdf/Richmond+Valley+DCP+2021+-+Commence+1+August+2021\\_S-3531.pdf](https://shared-drupal-s3fs.s3.ap-southeast-2.amazonaws.com/master-test/fapub_pdf/Richmond+Valley+DCP+2021+-+Commence+1+August+2021_S-3531.pdf); or

may be freely viewed at Council's Offices in Casino and Evans Head.

**(i) RVDCP21 Structure**

The DCP is structured into Parts and Chapters -

- Introduction (Administrative Provisions),
- Parts A to E-relating to grouped development types (Residential, Commercial, Industrial, Rural & Tourist/Visitor Accommodation),
- Parts F & G-relate to ungrouped development types (Signage, Subdivision & NRM), and
- Part I-relates to subject based topics.

An outline of the DCP is provided in Appendix 4 to this Certificate.

**(ii) Residential Accommodation**

Part A – Residential Development contains regulations, standards and assessment criteria for residential accommodation. This Part contains Chapters relating to dwelling houses, residential flat development (including multi dwelling housing), dual occupancies, shop-top housing, and seniors & affordable housing. This Part applies to all zones, although it should be noted that some types of residential accommodation may not be permissible in some zones.

Residential densities apply to land contained within Zone R1 General Residential, RU5 Village, B1 Neighbourhood Centre, B2 Local Centre and B3 Commercial Core. These densities have been mapped within the DCP.

**Has a Residential Density been identified for this land?**

The following density(s) apply -

None - This land is not located within a mapped Residential Density area.

**(iii) Building Lines and Setbacks**

Chapter I-3 defines building setbacks and building lines for development. These setbacks and building lines relate to:

- Front Boundary Building Line Setbacks
- Side and Rear Boundary Setbacks, and
- Foreshore Building Line Setbacks.

**What are the Front Boundary Building Line Setbacks?**

The following table contains the minimum building line setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Front Building Line Setbacks
R1 General Residential	All development	<ul style="list-style-type: none"> <li>➢ 6 metres Primary Road Frontage</li> <li>➢ 3 metres to Secondary or Parallel Road Frontage</li> </ul>
	Multi Dwelling Housing	<ul style="list-style-type: none"> <li>➢ Primary Road Frontage - 6 metres</li> <li>➢ Secondary or Parallel Road Frontage - 3 metres</li> <li>➢ Classified Road                             <ul style="list-style-type: none"> <li>○ Primary Road Frontage - 9 metres</li> <li>○ Secondary Road Frontage                                     <ul style="list-style-type: none"> <li>▪ 2m (lot area 0-900m<sup>2</sup>)</li> <li>▪ 3m (lot area &gt;900-1500m<sup>2</sup>)</li> <li>▪ 5m (lot area &gt;1500m<sup>2</sup>)</li> </ul> </li> </ul> </li> </ul>
	Residential Flat Building	<ul style="list-style-type: none"> <li>➢ Primary Road Frontage-                             <ul style="list-style-type: none"> <li>○ 6 metres Primary Road Frontage, and</li> <li>○ for that part of any development above 3 storeys – 10 metres</li> </ul> </li> <li>➢ Secondary and Parallel Road Frontages-                             <ul style="list-style-type: none"> <li>○ 3 metres – up to 2 storeys</li> <li>○ 6 metres – &gt;storeys, however for that part of any development &gt;3 storeys a 10 metre setback applies</li> </ul> </li> </ul>
	Ancillary Residential Development	<ul style="list-style-type: none"> <li>➢ Garages                             <ul style="list-style-type: none"> <li>○ Primary Road frontage - 7 metres</li> <li>○ Secondary or Parallel Road frontage – 5.5 metres</li> </ul> </li> <li>➢ Other ancillary development                             <ul style="list-style-type: none"> <li>○ Primary Road frontage - 6 metres</li> <li>○ Secondary or Parallel Road frontage – 3 metres</li> </ul> </li> </ul>
RU5 Village	Residential accommodation	<ul style="list-style-type: none"> <li>➢ Consistent with the requirements of Part A Residential Accommodation in DCP21 (which sets a 6 metres building line setback)</li> </ul>
	Ancillary Residential Development	<ul style="list-style-type: none"> <li>➢ Garages                             <ul style="list-style-type: none"> <li>○ Primary Road frontage - 7 metres</li> <li>○ Secondary or Parallel Road frontage – 5.5 metres</li> </ul> </li> <li>➢ Other ancillary development                             <ul style="list-style-type: none"> <li>○ Primary Road frontage - 6 metres</li> <li>○ Secondary or Parallel Road frontage – 3 metres</li> </ul> </li> </ul>
	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	<ul style="list-style-type: none"> <li>➢ Zero</li> </ul>

Zone	Development Types	Minimum Front Building Line Setbacks
	All Other Land Uses	> 6 metres
RU1 Primary Production, R5 Large Lot Residential, and C3 Environmental Management	Residential accommodation	> 15 metres—where fronting a local sealed road > 50 metres—where fronting a local unsealed road > 20 metres—where fronting a Classified Road
	All other development	> 20 metres
B1 Neighbourhood Centre	All development	> 6 metres
B2 Local Centre	Shop top housing, Seniors Living, Boarding Houses <sup>1</sup>	> Zero—where located above ground floor commercial development, else > 6 metres
	All other development <sup>1</sup>	> Zero
B3 Commercial Core	Shop top housing, Seniors Living, Boarding Houses <sup>1</sup>	> Zero—where located above ground floor commercial development, else > 6 metres <b>Note.</b> Refer to Heritage Conservation Area considerations.
	All other development <sup>1</sup>	> Zero <b>Note.</b> Refer to Heritage Conservation Area considerations.
IN1 General Industry	All development	> 6 metres to a primary frontage > 3 metres to secondary or parallel road frontage on a residential zone interface > 2 metres to a secondary or parallel road frontage, where the site is not on an interface with a residential zone
Other Zones	All development	> As per nearest adjoining zone

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, and coping, but excludes eaves.

**Note <sup>1</sup>.** Vehicular access opening of garages and sheds must be a minimum of 5.5 metres from the boundary with a road alignment.

**Note<sup>2</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

### What are the Side Boundary Setbacks?

The following table contains the minimum side boundary setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Side Setbacks
R1 General Residential RU5 Village	All Development	Consistent with the requirements for residential accommodation in Part A of the DCP.
	Dwellings houses Dual occupancy Secondary dwellings	> Building height 0 - 3.5m = 0.9 metres > Building height >3.5m = per following formula <b><math display="block">\frac{(\text{Building Height} - 3.5)}{4} + 0.9</math></b>
	Ancillary Residential Development	> Wall height <3m = 0.9m > Wall height 3 – 4.5m = Wall height – 2 metres
	Multi Dwelling Housing	> 1.5m, and for > Development that is 10m behind the front building line and >4.5m above ground level (existing) – formula Height of that part of the building – 3metres
	Residential Flat Buildings	> 2.5 metres, and > 6 metres – any part of that development above 2 storeys
RU5 Village	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	> Zero
RU1 Primary Production R5 Large Lot Residential C3 Environmental Management	Residential Accommodation Ancillary Residential Development	See Part A – Residential Accommodation in DCP21 (which sets a 5 metres side boundary setback) <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
	All development	> 5 metres > <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)

Zone	Development Types	Minimum Side Setbacks
B1 Neighbourhood Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Side Boundary – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
B2 Local Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero
B3 Commercial Core	Commercial Premises	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero—for that part of development 3 storeys or less, and ➤ 6 metres—for any part of the development 4 storeys or greater
IN1 General Industry	All other development	➤ Zero (but subject to BCA requirements), or ➤ To side boundary sharing boundary with residential development – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
Other Zones	All development	➤ Consider on merit

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, coping, but excludes eaves.

**Note<sup>1</sup>.** The *Building Code of Australia* may require the Class of building to incorporate special fire protection measures into the construction to achieve the minimum setbacks contained within Table I-3.2.

**Note<sup>2</sup>.** Side and rear boundary setbacks may need to increase to achieve minimum Asset Protection Zones (APZ) within bushfire prone areas.

**Note<sup>3</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

### What are the Rear Boundary Setbacks?

The following table contains the minimum rear boundary setbacks based upon zoning, and development type.

The zoning for the land is provided in (1)(a)(i) of this Certificate.

Zone	Development Types	Minimum Rear Setbacks
R1 General Residential RU5 Village	Residential Accommodation	➤ Single Storey = 3 metres ➤ Two Storey ○ First Storey = 3 metres ○ Second Storey = 6 metres
	Ancillary Residential Development	➤ If attached to residential accommodation – as per the residential accommodation ➤ If detached from residential accommodation – ○ wall height <2.9m = 0.9m ○ wall height >2.9m to 4.5m = maximum wall height – 2 metres
	Multi Dwelling Housing	➤ 6 metres
	Residential Flat Building	➤ 3 metres, and ➤ 6 metres – any part of that development above 2 storeys
	Other development <sup>1</sup>	➤ Consider on merits, or ➤ As required in a specific Chapter of the DCP.
RU5 Village	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	➤ Zero

Zone	Development Types	Minimum Rear Setbacks
RU1 Primary Production R5 Large Lot Residential C3 Environmental Management	Residential Accommodation Ancillary Residential Development	See Part A – Residential Accommodation in DCP21 (which sets a 5 metres side boundary setback) <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
	All development	➤ 5 metres ➤ <b>Note.</b> A larger setback may be required to accommodate Planning for Bushfire Protection measures such as an Asset Protection Zone (APZ)
B1 Neighbourhood Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Side Boundary – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
B2 Local Centre	Shop Top Housing, Boarding Houses, Seniors Living	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero
B3 Commercial Core	Commercial Premises	➤ See Part A – Residential Accommodation in DCP21 (shall have regard to the existing and desired character of the locality and the amenity of residents of the building and nearby properties and setback requirements of ground floor commercial development)
	All other development	➤ Zero—for that part of development 3 storeys or less, and ➤ 6 metres—for any part of the development 4 storeys or greater
IN1 General Industry	All other development	➤ Zero (but subject to BCA requirements), or ➤ To side boundary sharing boundary with residential development – Using the formula $\frac{(\text{Building Height} - 3.5)}{4} + 0.9$
Other Zones	All development	➤ Consider on merit

**Note.** For the purposes of this table external wall includes decks, staircases, posts, columns, patios, coping, but excludes eaves.

**Note<sup>1</sup>.** The *Building Code of Australia* may require the Class of building to incorporate special fire protection measures into the construction to achieve the minimum setbacks contained within Table I-3.2.

**Note<sup>2</sup>.** Side and rear boundary setbacks may need to increase to achieve minimum Asset Protection Zones (APZ) within bushfire prone areas.

**Note<sup>3</sup>:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C3 Environmental Management) from the 1 December 2021.

### ***Does a Foreshore Building Line Setback apply?***

No - This land is not affected by a Foreshore Building Line Setback.

**Note:** Richmond Valley Development Control Plan 2021 is freely available for download from Council's website at –

<http://www.richmondvalley.nsw.gov.au>

or may be viewed at Council's Offices in Casino and Evans Head.

## **(d) Draft Development Control Plan(s)**

A Development Control Plan (DCP) may be amended in the same manner as a new DCP can be created. A Draft DCP must be publicly exhibited for a minimum period of 28 days in accordance to the *Richmond Valley Council Community Participation Plan*.

### ***What Draft DCP(s) apply to this land?***

There are no Draft DCPs currently applying to this land.



**Note:** Draft DCP's, where applicable, are freely available for download from Council's website at –  
<http://www.richmondvalley.nsw.gov.au>  
 or may be viewed at Council's Offices in Casino and Evans Head.

### **(e) State Environmental Planning Policies (SEPPs)**

State Environmental Planning Policies (SEPPs) are created by the Governor under Division 3.3 of the *Environmental Planning and Assessment Act 1979*. SEPPs may be made with respect to such matters as are of significance for environmental planning in the State of New South Wales.

**Note.** State environmental planning policies may be downloaded from the NSW Legislation website at-  
<http://www.legislation.nsw.gov.au>

Following is a list of relevant SEPPs.

See Section (f) for any relevant Draft SEPPs.

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### **State Environmental Planning Policy No. 1 - Development Standards**

**[Not applicable]**

See clause 4.6 of the *Richmond Valley Local Environmental Plan 2012* to vary certain development standards.

**Note.** See Clause 4.6 of the RVLEP12.

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### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

This is a consolidated SEPP which commenced on 1 March 2022. Following are Chapters which are relevant to this land-

#### **Chapter 2 Vegetation in non-rural areas**

This Chapter applies to non-rural zoned land (ie within Zones RU5 Village, R1 General Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, IN1 General Industry, SP1 Special Activities, SP2 Infrastructure, RE1 Public Recreation, RE2 Private Recreation, C2 Environmental Conservation, C3 Environmental Management).

The Chapter aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

This Policy operates at 2 levels:

- for minor vegetation removal that is below the Biodiversity offset scheme thresholds, it will apply like a Tree Preservation Order and require a permit for clearing of vegetation, but only where a DCP provides for it to operate.
- for vegetation removal above the threshold, an approval will be required from the Native Vegetation Panel for clearing native vegetation.

Currently Richmond Valley Council does not have a DCP provision that activates an approval/permit process below the threshold.

#### **Chapter 3 Koala habitat protection 2020**

This Chapter applies to land within Land Zone RU1 Primary Production and RU3 Forestry. It aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over the present range and reverse the current trend of koala population decline by-

- (a) requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat; and
- (b) encouraging the identification of areas of core koala habitat; and
- (c) encouraging the inclusion of areas of core koala habitat in environmental protection zones.

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**Chapter 4 Koala habitat protection 2021**

This Chapter applies to all land except Land Zone RU1 Primary Production & RU3 Forestry. It aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

Richmond Valley LGA is within the North Coast Koala Management Area for the purposes of Koala use tree species (as listed within Schedule 3 of the SEPP).

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**Chapter 7 Canal estate development**

This Chapter prohibits new canal estate developments in NSW.

**Note:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

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**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

Regulations have established a scheme to encourage sustainable residential development (the BASIX scheme) under which:

- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
- (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

There are BASIX requirements for water and energy usage and thermal comfort performance that apply to:

- all new residential dwellings.
- alterations and additions to dwellings that cost \$50,000 or more.
- swimming pools of 40,000 litres or more.

More information, and access to the online BASIX assessment tool, can be found at-

<https://www.planningportal.nsw.gov.au/basix>

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**State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

This SEPP became effective from 27 February 2009 with subsequent amendments. The Policy is divided into the following Parts: Part 1 General; Part 2 Exempt Development Codes; Part 3 General Housing Code; Part 3A Rural Housing Code; Part 4 Housing Alterations Code; Part 4A General Development Code; Part 5 Commercial and Industrial Alterations Code; Part 5A Commercial and Industrial (New Buildings and Additions) Code; Part 6 Subdivisions Code; Part 7 Demolition Code; and Part 8 Fire Safety Code.

The aims of this Policy are to provide a streamlined assessment process for development that complies with specified development standards by: a) providing exempt and complying development codes that have State-wide application; b) identifying, in the Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the *Environmental Planning and Assessment Act 1979*; d) enabling the progressive extension of the types of development in the policy; and e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.

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**Can Complying Development be Undertaken on this Land?**

The *Environmental Planning and Assessment Regulation 2000* requires a section 149 (2) Planning Certificate to advise whether or not the land is land on which complying

development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A(1) (c) to (e), (2), (3) and (4), 1.18(1)(c3), and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Clauses 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3), and 1.19 identify a number of conditions upon which exempt or complying development may not be carried out on land. In response to this question, Council has undertaken an assessment of the applicable constraints referred to within the clauses and determined whether development in, accordance with the relevant Codes, may/may not be carried out as Complying Development under the SEPP-

### **Part 3 - Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

### **Part 3A - Rural Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

### **Part 3B – Low Rise Housing Diversity Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

### **Part 3C – Greenfield Housing Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

### **Part 3D – Inland Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

### **Part 4 - Housing Alterations Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

### **Part 4A - General Development Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 5 – Commercial and Industrial Alterations Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 5A – Commercial and Industrial (New Buildings and Additions) Code**

No – Complying Development under this Code is not permitted by the SEPP because the land is affected by:

- Coastal Management SEPP - Coastal Environment area

**Part 5B – Container Recycling Facilities Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 6 - Subdivisions Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 7 - Demolition Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

**Part 8 – Fire Safety Code**

Yes – Complying Development under this Code is permitted under the SEPP subject to complying with all the predetermined requirements of the applicable Complying Development.

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***State Environmental Planning Policy (Housing) 2021***

This SEPP commenced on 1 March 2022 and comprises the translation of previous housing related SEPPs into a single consolidated SEPP.

The principles of this Policy are as follows—

- enabling the development of diverse housing types, including purpose-built rental housing,
- encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- ensuring new housing development provides residents with a reasonable level of amenity,
- promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- minimising adverse climate and environmental impacts of new housing development,
- reinforcing the importance of designing housing in a way that reflects and enhances its locality,
- supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- mitigating the loss of existing affordable rental housing.

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Following Chapters are relevant to this land-

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### **Chapter 2 Affordable Housing**

This Chapter provides for affordable housing such as:

- in-fill affordable housing
- boarding houses
- boarding houses—Land and Housing Corporation
- supportive accommodation
- residential flat buildings—social housing providers, public authorities and joint ventures
- residential development—Land and Housing Corporation, and
- Retention of existing affordable rental housing.

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#### ***Is there a Development Consent and conditions relating to provision of Affordable Housing on this land?***

No – there is no development consent (and conditions) relating to the provision of affordable housing on this land

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### **Chapter 3 Diverse Housing**

This Chapter provides for diverse housing options such as:

- secondary dwellings
- Group Homes
- Co-living housing
- Build-to-rent housing
- Housing for seniors and people with a disability
- short-term rental accommodation
- conversion of certain serviced apartments
- manufactured home estates, and
- caravan parks.

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#### ***Is there a Development Consent and conditions restriction occupation of housing on this land to seniors or people with disabilities?***

No – there is no development consent (and conditions) restricting occupation of housing on this land to seniors or people with disabilities

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### **Site Compatibility Certificates**

The Housing SEPP (and formerly the Affordable Housing SEPP and the Seniors SEPP) enables the Planning Secretary to issue Site Compatibility Certificates certifying the land suitable for that development.

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#### ***Is there a Site Compatibility Certificate for this land?***

No – there is no Site Compatibility Certificate under the former Affordable Housing SEPP for this land

No – there is no Site Compatibility Certificate under the former Seniors Housing SEPP for this land

No – there is no Site Compatibility Certificate under the Housing SEPP for this land

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### **State Environmental Planning Policy (Industry and Employment) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous transport and infrastructure related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 3 Advertising and signage**

This Chapter aims:

- (a) to ensure that signage (including advertising):
  - (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in suitable locations, and
  - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

The Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.

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**State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development**

The aim of this Policy is to improve the design quality of residential apartment development in NSW.

The Policy applies to new residential flat buildings, shop top housing or mixed use development with a residential accommodation component if

- (a) the development consists the erection of a new building, substantial redevelopment or refurbishment of an existing building or conversion of an existing building, and
- (b) the building is >2 storeys (excluding below ground levels provided for car parking) and
- (c) the building contains at >3 dwellings.

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**State Environmental Planning Policy (Planning Systems) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous planning system related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 State and Regional development**

The aims of this Chapter are:

- (a) to identify development that is State significant development,
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,
- (c) to identify development that is regionally significant development.

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**Chapter 4 Concurrences and consents**

Empowers the Planning Secretary to grant concurrences where a relevant concurrence authority fails to inform a consent authority of its decision concerning concurrence within allowed timeframes.

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**State Environmental Planning Policy (Primary Production) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous rural land and primary production related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 Primary Production and rural development**

The aims of this Chapter are:

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,

- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

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### ***State Environmental Planning Policy (Resilience and Hazards) 2021***

This SEPP commenced on 1 March 2022 and comprises the translation of previous coastal management, hazardous and offensive development and remediation of land related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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#### ***Chapter 2 Coastal management***

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

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#### ***Is this land within a Coastal Management Area?***

Yes - Mapping associated with the *Resilience and Hazards SEPP - Chapter 2 Coastal Management* identifies this land as being wholly within the coastal management area (the coastal zone).

This land contains the following Coastal Management SEPP area(s):

- Coastal Environment area
- Coastal Use Area

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#### ***Chapter 3 Hazardous and Offensive Development***

The aim of this Chapter is to provide a mechanism for the consideration of applications for hazardous and offensive industries, by ensuring that the consent authority has sufficient information to assess any such applications, to impose conditions to reduce or minimise any adverse impacts and to require advertising of applications for such developments.

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#### ***Chapter 4 Remediation of Land***

This Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The Chapter applies to the whole state, to ensure that remediation is permissible development and is always carried out to a high standard. It specifies when consent is required for remediation and lists considerations that are relevant when rezoning land and determining development applications.

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**State Environmental Planning Policy (Resources and Energy) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous resources and energy related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 Mining, petroleum production and extractive industries**

The aims of this Chapter are to

- (a) provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State;
- (b) facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive resources; and
- (c) to establish appropriate planning controls to encourage ecologically sustainable development.

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**Site Verification Certificates**

A site verification certificate sets out the Planning Secretary's opinion that the land is or is not biophysical strategic agricultural land.

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**Has a Site Verification Certificate been issued for this land?**

No – There is no Site Verification Certificate for this land.

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**State Environmental Planning Policy (Transport and Infrastructure) 2021**

This SEPP commenced on 1 March 2022 and comprises the translation of previous transport and infrastructure related SEPPs into a single consolidated SEPP.

Following Chapters are relevant to this land-

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**Chapter 2 Infrastructure**

The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services,
- (b) providing greater flexibility in the location of infrastructure and service facilities,
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land,
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development),
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development,
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.

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**Chapter 3 Educational establishments and child care facilities**

The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and



- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and
- (h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.

### **Site Compatibility Certificate**

This Policy enables a Site Compatibility Certificate to be issued by the Planning Secretary (clause 2.19) or the Planning Panel (clause 3.14) to permit additional uses of certain State land.

### **Is there a Site Compatibility Certificate for this land?**

No – there is no Site Compatibility Certificate for this land.

## **(f) Draft State Environmental Planning Policies (DSEPPs)**

Draft State Environmental Planning Policies (DSEPPs) are to be notified within Section 149(2) Certificates from the time that the Draft is placed on public exhibition by the NSW Department of Planning and Environment.

**Note.** Draft State environmental planning policies may be downloaded from the NSW Department of Planning and Environment's website at-

<http://planning.nsw.gov.au>

Following is a list of Draft SEPPs that are relevant to this land.

## **Draft State Environmental Planning Policy - Implementation of Employment Zone Reforms**

### **Changes to Business and Industrial Zones**

The Department of Planning and Environment (DPE) is currently exhibiting the translation of existing Business and Industrial zones into new Employment zones. The exhibition is being held on the DPE Planning Portal for 6 weeks from **31 May 2022** to **COB 12 July 2022**.

On 1 December 2022, Business and Industrial zones will be replaced by new Employment zones. The DPE is currently exhibiting details of how each NSW Local Environmental Plan, that includes a current Business or Industrial zone, will be amended to use the new Employment zones. The Explanation of Intended Effect (EIE) and a searchable web tool that displays the current and proposed zone for land covered in this public exhibition is available on the [Planning Portal @ https://www.planningportal.nsw.gov.au/employment-zones](https://www.planningportal.nsw.gov.au/employment-zones) with further information available on the [Employment Zones Reform webpage @ https://www.planning.nsw.gov.au/employment-zones-reform](https://www.planning.nsw.gov.au/employment-zones-reform).

The amendment proposes to translate zones within the *Richmond Valley Local Environmental Plan 2012* as follows:

<b>Existing Business and Industrial Zones</b>	<b>Proposed Translation to New Employment Zones</b>	<b>Where</b>
B1 Neighbourhood Centre	E1 Local Centre	All existing B1 zoned land
B2 Local Centre	E1 Local Centre	All existing B2 zoned land
B3 Commercial Core	E2 Commercial Centre	All existing B3 zoned land
IN1 General Industrial	E4 General Industrial	All existing IN1 zoned land

		except as provided below
	W4 Working Waterfront	Evans Head Fisherman's Cooperative and marina precinct at South Evans Head
	Deferred Matters*	All IN1 zoned land to which the Richmond Valley Council Regional Jobs Precinct applies
* Deferred Matters will retain their IN1 General Industrial zoning post 1 December 2022 until a Planning Proposal has been prepared to implement the Regional Jobs Precinct Master Plan.		

The amendment also includes Land Use Tables (LUTs) for each new Employment zone which comprises a translation and review of development permissibilities with the aim to facilitate employment growth.

If you have any questions, please contact the Department of Planning and Environment on **1300 420 596** or by email at [employment.zones@planning.nsw.gov.au](mailto:employment.zones@planning.nsw.gov.au).

#### **Making submissions**

Please note that submissions should be made via the search webforms on the Planning Portal, so that the detail can be linked to a specific site, employment zone or local government area. Submissions made in free format may not be able to be considered in detail. Given this exhibition applies across the state the preferred submission format prepopulates property identifiers to enable an efficient and clear alignment of submission to LEP so that the Department and Council can review feedback and finalise amendments by September.

## **2. ROAD WIDENING AND ROAD REALIGNMENT**

Council is required to identify whether the land is affected by a proposal to realign or widen a road. This would involve acquisition of part of the land to enable the road to be realigned or widened.

### ***Is the land affected by proposed road widening or road realignment?***

No - This land is not identified for future road acquisition, lane widening or road realignment.

**Note:** Council or the Roads and Maritime Services (RMS) may undertake road realignments and lane widening as part of routine road management. If this is the case they will negotiate purchase of the affected land under the Just Terms Compensation Act.

Furthermore, the need for road widening and/or road realignment is given a merits consideration during the assessment of development applications, and may be conditioned for dedication at no cost to the relevant authority.

## **3. COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RESTRICTIONS**

**Note:** The following policies have been adopted by Council or directed to be enforced by Council by the NSW State Government with regard to the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulfate soils or any other risk (other than flood). An indication of the likely hazard may be given but further enquiry may be required to determine the extent of the hazard. Section 149 (5), where requested, may provide additional information.

### **(i) Tidal Inundation or Subsidence**

Council has no policies with regard to these matters.

**(ii) Acid Sulfate Soil**

Clause 6.1 of *Richmond Valley Local Environmental Plan 2012* contains provisions regulating the excavation or disturbance of Acid Sulfate Soils (ASS). The clause refers to 5 classes of acid sulfate soils that have been mapped on the *Richmond Valley Local Environmental Plan 2012 Acid Sulfate Soils Map*. Chapter H-2 of *Richmond Valley Development Control Plan 2021* contains a more detailed explanation of Acid Sulfate Soils; the development assessment process; the process for undertaking preliminary assessments; and to outline the information required when lodging a development application and preparing plans of management.

Whether ASS is likely on this land has been addressed under the Heading 1(a)(vii) of this certificate.

**(iii) Bushfire**

Section 4.14 (formerly section 79BA) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) does not permit a consent authority to grant consent to carry out development for any purpose (other than a subdivision of land that could lawfully be used for residential purposes or development for a special fire protection purpose) on bush fire prone land unless the consent authority:

- (a) is satisfied that the development conforms to the specifications and requirements of *Planning for Bushfire Protection*, or
- (b) the consent authority has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from bush fire.

Section 4.46 (formerly Section 91) of the EP&A Act declares development for:

- the subdivision of land, that could lawfully be used for residential purposes; and
- a special fire protection purpose,

to be integrated development requiring a Section 100B Certificate from the NSW Rural Fire Service under the *Rural Fires Act 1997*. Integrated development must be forwarded to the Commissioner of the Rural Fire Service for an authorisation under S.100B.

***Is this land identified as Bush Fire Prone Land?***

No - This land is not identified as Bush Fire Prone Land.

**Note.** The Bushfire Prone Land maps are available for viewing at Council's Offices. It may also be downloaded from the Council Website.

Further information on Bushfire Planning is available from the NSW Rural Fires Service website – [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au).

**(iv) Australian Noise Exposure Forcasts (ANEF)**

ANEF relates to noise emissions from Airports and is based upon the level of aircraft movement, types of aircraft, and duration of use of the airport.

Clause 6.12 of the *Richmond Valley Local Environmental Plan 2012* requires that certain types of development must not be granted development consent unless consideration of ANEF has been given and the it is satisfied that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2012-2000.

***Is this land affected by Aircraft Noise ANEF 25+?***

No - This land is not affected by a 25 ANEF contour, or higher.

**(v) Landslip Risk**

Clause 6.7 of the *Richmond Valley Local Environmental Plan 2012* contains an overlay provision regarding Landslide Risk. It references a map of slopes having grades greater than 18<sup>o</sup> (or 33%). The clause aims to assessment the impact of development on slope stability and erosion.

***Is this land identified as having Landslide Risk?***

No - This land is not mapped as having Landslip Risk.

**Note.** Land other than that mapped as having steep grades may be subject to mass movement, erosion and landslip risk.

#### (vi) Coastal Hazards

Council has no formally adopted policy on coastal hazards. Notwithstanding, the *Richmond River Development Control Plan 2021* requires development in the coastal zone to be assessed for its compatibility with coastal hazards such as storm surge, potential climate change driven sea level rise, coastal inundation, and short & long term coastal erosion.

#### **Is this land likely to be affected by a Coastal Hazard?**

No – This land is not currently identified as being affected by a Coastal Hazard.

## 4. FLOOD RELATED DEVELOPMENT CONTROLS

Council has undertaken a number of studies within its Area that have modelled flood behaviour. Notwithstanding, these studies do not comprehensively cover the entire Council Area.

**Note.** A new Flood Study with a greater coverage of the floodplain and increased accuracy is in preparation. Completion of the Study was scheduled for the first quarter of 2022 but has been delayed so it can incorporate data from the March 2022 Floods.

Clause 5.21 of *Richmond Valley Local Environmental Plan 2012* requires consideration of flooding in all development applications on land with the Flood Planning Area (this is the area below the 1 in 100 year Average Recurrence Interval (ARI) flood event plus 500mm freeboard, more commonly known as the Flood Planning Level).

Before granting consent Council must be satisfied that the development:

- (a) is compatible with the flood function and behaviour on the land, and
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

Chapter H-1 of *Richmond Valley DCP 2021* provides further policy advice with regard to flood development controls, while Council's Flood Risk Management Plans have details of the flood studies conducted, flood hazard categories, and flood development controls.

#### **Is this land considered to be with a Flood Planning Area?**

**Yes - The land is believed to be entirely below the Flood Planning level.**

Development on the land will be subject to flood related development controls.

The habitable floors of all residential accommodation is required to be elevated at least 500mm above the 1 in 100 year ARI flood event level. However, development of high risk locations, such as floodways, may be prohibitive.

**Note.** Flood information can be freely obtained from Council.

**Note.** It should not be assumed that land above a Flood Planning Area is flood free. There may be instances where development located above the Flood Planning Area, but still on the floodplain, must be assessed against the new guidelines "Considering Flooding In Land Use Planning Guideline (May 2021)".

## 5. DEVELOPER CONTRIBUTIONS PLANS

### **Richmond Valley Council Section 94A Contributions Plan 2010**

Richmond Valley Council adopted the Section 7.12 (formerly Section 94A) Contributions Plan on 15 June 2010, becoming effective from 1 July 2010. It levies up to a 1% contribution on development, based on the market cost of that development. The plan was amended on 8 January 2014 to revise the forecast income and therefore the works schedule, as well as include waiver provisions for exceptional circumstances such as compassionate grounds.

**Note.** The EP&A Act was entirely renumbered (decimalised) by Amendment commencing on 1 March 2018. Section 94A was renumbered as Section 7.12. Savings and transitional arrangements permit a reference to a former section of the Act to be a reference to the new section.

### **Richmond Valley Council Section 94 Heavy Haulage Contributions Plan 2013**

Richmond Valley Council adopted the Section 7.11 (formerly Section 94) Contributions Plan for Heavy Haulage on 15 October 2013, becoming effective from 23 October 2013. The Plan applies to any heavy haulage traffic generating development. The Plan levies a contribution of 0.072 cents per tonne per kilometre of haulage route.

It will be at the discretion of Council as to whether a development will be levied under Section 7.12 (formerly Section 94A) or the Section 94 Heavy Haulage Plan, as both types of contribution cannot be applied to the same development application.

**Note:** Council's Contributions Plans are freely available for download from Council's website at – <http://www.richmondvalley.nsw.gov.au>  
or may be viewed at Council's Offices in Casino and Evans Head.

**Note.** The EP&A Act was entirely renumbered (decimalised) by Amendment commencing on 1 March 2018. Section 94 was renumbered as Section 7.11. Savings and transitional arrangements permit a reference to a former section of the Act to be a reference to the new section.

## 6. STATE SIGNIFICANT DEVELOPMENT

State significant development is development that the Minister has declared to be State Significance Development under Division 4.7 (formerly Division 4.1 of Part 4) of the EP&A Act, and will therefore require Ministerial consent. This declaration can be stated in a:

- State environmental planning policy; or
- by order in the Government Gazette.

Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* declares classes of development to be State significance development, with Schedule 2 declaring identified sites to be State significant development.

### ***Is this land declared to be State Significant Development?***

No - This land is not declared to be a State Significant development under Schedule 2 of the SEPP or by order published in the Gazette.

## 7. ANNUAL CHARGE FOR COASTAL PROTECTION SERVICES

Section 496B of the *Local Government Act 1993* enables a Council to levy an annual charge, for the provision of coastal protection services, on a rateable property that benefits from the services.

Section 553B of that Act enables a Council to levy, with the consent of the owner or any previous owner, an annual charge for maintenance of existing coastal protection works. An existing coastal protection work is one that was in place prior to 25 February 2011.

### ***Has an owner of this land consented to an annual charge for existing coastal protection works?***

No – There is no annual charge applying for existing coastal protection services.

## 8. MINE SUBSIDENCE

There is no land within the Richmond Valley Council area that is contained within a mine subsidence district.

## 9. DECLARED AREA OF OUTSTANDING BIODIVERSITY VALUE or CRITICAL HABITAT

A *Declared Area of Outstanding Biodiversity Value* means an area declared as such under Part 3 of the *Biodiversity Conservation Act 2016* and includes declared critical habitat under Part 3 of the *Threatened Species Conservation Act 1995*.

*Critical habitat* means habitat declared under Division 3 of Part 7A of the *Fisheries Management Act 1994*.

### **Is there a Declared Area of Outstanding Biodiversity Value and/or declared Critical Habitat on this land?**

No – There is no Declared Area of Outstanding Biodiversity Value or declared Critical Habitat on this land.

**Note.** Land that is not declared to have outstanding biodiversity value or to be critical habitat may contain high environmental value (HEV) habitat which could contain threatened/endangered species or ecological communities.

Furthermore, the *Biodiversity Conservation Act 2016*, *Local Land Services Act 2013* and/or *Fisheries Management Act 1994* may require approvals or offsetting to clear native vegetation.

NSW Local Land Services should be consulted regarding biodiversity conservation of terrestrial habitats, and the Department of Primary Industries-Fisheries regarding biodiversity conservation of waterways and key fish habitats.

## 10. MATTERS ARISING UNDER THE CONTAMINATED LAND MANAGEMENT ACT 1997

The general object of the *Contaminated Land Management Act 1997* is to establish a process for investigating and (where appropriate) remediating land that the Environment Protection Authority (EPA) considers to be contaminated significantly enough to require regulation Division 2 or Part 3.

Section 59 of the Act sets out the terms under which a local council must be informed that: land has been declared, or ceases to be declared, significantly contaminated land; a management order has been served or revoked for the land; whether the EPA has given approval, or withdrawn its approval, for a voluntary management proposal on the land; or whether an ongoing maintenance order has been served or revoked for the land.

To the extent that Council has been notified by the EPA-

### **Is this land declared Significantly Contaminated Land?**

No – The land is not declared to be Significantly Contaminated Land.

### **Is this land subject to a management order?**

No – There are no management orders on this land.

### **Is this land subject of an approved voluntary management proposal?**

No – There are no voluntary management proposals for this land.

### **Is this land subject to an ongoing maintenance order?**

No – There are no ongoing maintenance orders for this land.

***Is this land subject of a site audit statement?***

No – There is no site audit statement for this land.

**Note:** Absence of notification from the EPA under Section 59 of the Contaminated Land Management Act 1997 does not necessarily mean that the land is not subject to some type of contamination.

**11. PROPERTY VEGETATION PLANS**

The *Native Vegetation Act 2003* provided for the management of native vegetation in NSW. The Act enabled the clearing of native vegetation under a number of mechanisms. One such mechanism was an approved Property Vegetation Plan. Another function of the Act was to provide for incentives for the conservation of native vegetation.

The *Native Vegetation Act 2003* was repealed under Biodiversity Conservation Reforms that commenced on 25 August 2017. Savings provisions contained in clause 60 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* have retained all Property Vegetation Plans that were in force prior to the commencement of the reforms.

The following information has been supplied to Council to notify within this certificate.

***Is there a current Property Vegetation Plan (PVP) for this land?***

No – There is no Property Vegetation Plan for this land.

***Is there a Remediation Order over this land?***

No – There is no Remediation Direction applying to this land.

**12. TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006**

The *Trees (Disputes Between Neighbours) Act 2006* was introduced as a mechanism for the Court to order the remedy, restrain or prevention of damage to property on land as a result of trees. It also addresses disputes regarding hedges over 2.5 metres high that obstruct sunlight or views.

***Is there an Order under the Act applying to this land?***

No – There are no orders under the *Trees (Disputes Between Neighbours) Act 2006* applying to this land.

**13. BIODIVERSITY STEWARDSHIP SITES (formerly BIOBANKING AGREEMENTS) and NATIVE VEGETATION CLEARING SET-ASIDE AREAS**

Biodiversity Stewardship Agreements (formerly known as Biobanking Agreements) (offset sites) and Native Vegetation Clearing set-aside areas are established to protect biodiversity as offsets. They apply in perpetuity on the land, where they exist.

Set-asides are established on the same land holding where the clearing occurs. Set-asides are identified by landholders in conjunction with the Local Land Services and listed on a public register. The landholder is responsible for management of the set-aside area.

Offset sites under the Biodiversity Offsets Scheme are secured using Biodiversity Stewardship Agreements. These are voluntary in-perpetuity agreements between a landholder and the Minister for the Environment. The agreements are registered on the title of the land and listed in a public register. Stewardship agreements generate biodiversity credits, representing the gain in biodiversity achieved by protecting and managing the land. These credits can be sold to development proponents to offset biodiversity impacts elsewhere.

The existence of an offset site and/or Native Vegetation Set-aside area may restrict the land, in terms of its use, and may require continued management actions by the owner.

***Is there a Biodiversity Stewardship Site (or a Biobanking Site) on this land?***

No – This is not a Biodiversity Stewardship Site.

***Is there a Native Vegetation Clearing Set-Aside Area on this land?***

No – This is not a Native Vegetation Clearing Set-Aside Area.

**14. BIODIVERSITY CERTIFICATION**

The NSW Government provides for biodiversity certification of land under Part 8 of the *Biodiversity Conservation Act 2016*, and includes biodiversity certified land certified under Part 7AA of the *Threatened Species Conservation Act 1995*.

Biodiversity Certification of land has the effect of:

**(1) State Significant Infrastructure under Part 5.1 of the Planning Act**

The environmental assessment requirements for the approval of State significant infrastructure under Part 5.1 of the *Environmental Planning and Assessment Act 1979* do not require an assessment of the impact of the infrastructure on biodiversity to the extent that the infrastructure is carried out or proposed to be carried out on biodiversity certified land.

**(2) Development (including State significant development) under Part 4 of the Planning Act**

An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the *Environmental Planning and Assessment Act 1979*

**(3) A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Environmental Planning and Assessment Act 1979, is not required to take into consideration the likely impact on biodiversity of the development carried out on that land.****(4) Activities under Part 5 of the Planning Act**

An activity to which Part 5 of the *Environmental Planning and Assessment Act 1979* applies which is carried out or proposed to be carried out on biodiversity certified land is taken, for the purposes of Part 5 of that Act, to be an activity that is not likely to significantly affect any threatened species or ecological community under the *Biodiversity Conservation Act 2016*, or its habitat, in relation to that land.

**(5) A determining authority under Part 5 of the Environmental Planning and Assessment Act 1979 is not required under that Part to consider the effect on biodiversity of an activity to the extent that it is carried out on biodiversity certified land.**

**Note.** Part 5A of the *Local Land Services Act 2013* provides that biodiversity certified land is categorised as category 1-exempt land, and accordingly the land is not a regulated rural area of the State under that Part and that Part does not impose any restriction on the clearing of native vegetation on the land.

***Is this land Biodiversity Certified?***

No – This land is not Biodiversity Certified.

**15. DIRECTIONS UNDER PART 3A OF THE ACT**

Part 3A of the *Environmental Planning and Assessment Act 1979* was repealed in 2011. Notwithstanding, Section 75P(2)(c1) provided a mechanism for the Minister to issue directions that provisions of an environmental planning instrument, that prohibit or restrict the carrying out of a project or a stage of a project, on land under Part 4 of the Act does not have effect.

**Note.** These directions have been saved despite repeal of Part 3A.

***Is there a Part 3A Direction applying to this land?***

No – There are no Part 3A Ministerial Directions applying to this land.

**16. PAPER SUBDIVISION INFORMATION**

The NSW Government released new guidelines to assist the development of land trapped in 'paper subdivisions'. These are lots that are subdivided on paper, but have not been developed due to their irregular subdivision patterns, fragmented ownership and/or a lack of appropriate zoning and servicing. In some cases, the subdivisions date back to the 1800s and can be as small as 200m<sup>2</sup> in



area and less than 10m in width – sometimes with no land between lots for ‘common’ areas such as roads and footpaths.

A process has been established under Schedule 7 of the *Environmental Planning and Assessment Act 1979* to enable the creation of a new subdivision plan for these areas by amalgamating small lots into more viable parcels and allocating land for infrastructure and services.

A proposed Development Plan, being the new subdivision layout, would be put to a vote of landowners. If 60% of landowners and the owners of 60% of the land agree to the Development Plan it will be adopted, and the Minister will make a Subdivision Order that will empower an Authority to manage the development and re-subdivision of the land.

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***Is there a Development Plan applying to this land?***

No – There is no Development Plan applying to this land.

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***Is there a Subdivision Order applying to this land?***

No – There is no Subdivision Order applying to this land.

## 17. LOOSE-FILL ASBESTOS INSULATION

NSW Fair Trading maintains a register of residential premises known to have loose-fill asbestos ceiling insulation installed.

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***Is this land identified on the Loose-fill Asbestos Insulation Register?***

No – Council has not received notification from NSW Fair Trading that this land has been identified on the Loose-fill Asbestos Insulation Register.

**Note:** The Loose-fill Asbestos Insulation register can be searched at the following web address

[http://www.fairtrading.nsw.gov.au/ftw/Tenants\\_and\\_home\\_owners/Loose\\_fill\\_asbestos\\_insulation/Public\\_Search/LFAI\\_Public\\_Register.page?](http://www.fairtrading.nsw.gov.au/ftw/Tenants_and_home_owners/Loose_fill_asbestos_insulation/Public_Search/LFAI_Public_Register.page?)

## 18. AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS

Part 4 of the *Building Product (Safety) Act 2017* enables an **affected building notice** to be issued over a building where a banned building product has been used in the building for a use that is prohibited by the building product use ban. An **building product rectification order** may be issued over such a building to do such things as are necessary to:

- eliminated or minimise a safety risk posed by the use of the banned building product; and/or
- to remediate or restore the building following the elimination or minimisation of the safety risk.

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***Is there an Affected Building Notice applying to this land?***

No – Council is not aware of an affected building notice that is in force in respect of this land.

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***Is there a Building Product Rectification Order (or an intention to make such an order) applying to this land?***

No – Council is not aware of:

- a building product rectification order that is in force in respect of this land and has not been fully complied with, or
- any notice of intention to make a building product rectification order in respect of the land.

**Note:** More information on non-conforming building products can be obtained from-

[http://www.fairtrading.nsw.gov.au/ftw/Consumers/Product\\_and\\_service\\_safety/Non\\_conforming\\_building\\_products.page](http://www.fairtrading.nsw.gov.au/ftw/Consumers/Product_and_service_safety/Non_conforming_building_products.page)

## **ADDITIONAL ADVICE SUPPLIED UNDER SUBSECTION (5)**

Section 10.7(5) (formerly known as Section 149(5) or 149 Part 5) provides that a council may, in a Planning Certificate, include advice on such other relevant matters affecting the land of which it may be aware.

Additional advice is provided in accordance with Subsection (5) and supplied in good faith. Council accepts no liability for the advice given (see subsection (6)). Specific enquiry should be made where doubt exists.

### **A. WHERE THE LAND IS ZONED RU1 OR E3, CAN IT BE SUBDIVIDED TO CREATE ADDITIONAL DWELLING-HOUSE OPPORTUNITIES?**

Clause 4.1 of the *Richmond Valley Local Environmental Plan 2012* provides for the subdivision of land to create lots where each lot created is not less than the minimum size shown on the *Richmond Valley Local Environmental Plan 2012 Lot Size Map* for that land. There are several exceptions to this rule such as for special purpose subdivisions (cl.4.2A), and rural subdivision lots (cl.4.2), however, neither of these will create dwelling opportunities for the lots created.

Clause 4.2B of the LEP provides for dwelling opportunities on rural land. This clause only applies to land within Zone RU1 Primary Production and Zone C3 Environmental Management. The clause acknowledges that lots created (or that could be created) under clause 4.1, which meet the minimum lot size, will have a dwelling opportunity.

#### ***Could this land be subdivided so that each lot has a dwelling opportunity?***

The land is contained within Zone RU1 Primary Production and/or Zone C3 Environmental Management. Each of these rural zones permits a dwelling house to be erected on a lot that meets the minimum lot size for that land.

The land may only be subdivided if each lot to be created is equal to, or greater than, the minimum lot size for subdivision as it applies across the land. The Minimum Lot Size for this land is:

- 40 ha - Minimum Lot Size

Note. The land has an area of 663.900000 SqM. As a general rule of thumb, divide this land area by the minimum lot size and if the result is greater than 2 there may be an opportunity to subdivide.

### **B. DWELLING OPPORTUNITY**

A Dwelling Opportunity is where the *Richmond Valley Local Environmental Plan 2012* legally recognises that development consent may be granted to have a dwelling house on that land.

#### ***Rural Zones - Rural Zones RU1 Primary Production and C3 Environmental Management***

Zones RU1 and E3 permit dwelling houses, but Clause 4.2B of the *Richmond Valley Local Environmental Plan 2012* restricts which land may be granted development consent for a dwelling. This is known as a "Dwelling Opportunity".

The clause provides for a dwelling opportunity under the following circumstances:

- a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
- a lot created before this Plan commenced and on which the erection of a dual occupancy (attached) or a dwelling house was permissible immediately before that commencement, or
- a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dual occupancy

(attached) or a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or

- (d) a lot on land that is identified as 'Dwelling opportunity' on the Dwelling Opportunity Map.

### **Is there a Dwelling Opportunity (Zones RU1 and C3) on this land?**

Yes (Shared) - This land (that component within Zones RU1 and/or C3) has a recognised dwelling opportunity under clause 4.2B of the LEP which is shared with other land. This opportunity will be/has been taken up by the first dwelling to be erected within the boundaries of the shared opportunity.

**Note.** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

### **Additional notes regarding this Dwelling Opportunity Advice**

Nil

**Note:** Dwelling-house opportunity advice is subject to obtaining development consent. It is a guide as to whether the planning scheme will permit a dwelling house on the land. It is not an assessment of whether the land is suitable for a dwelling.

## **C. DUAL OCCUPANCY AND SECONDARY DWELLINGS**

Both Dual Occupancy and Secondary Dwellings consist of having 2 dwellings on the same land, however, secondary dwellings cannot be subdivided and are restricted by clause 5.4 of the *Richmond Valley Local Environmental Plan 2012* to a floor area not exceeding 60m<sup>2</sup>, or 25% of the principal dwellings floor area, whichever is the greater.

The following table identifies in what zones dual occupancy and secondary dwellings are permitted:

LEP ZONES	Dual Occupancy	Secondary Dwelling
<b>Rural</b>		
RU1 Primary Production	Permissible <sup>1a</sup>	Prohibited <sup>3</sup>
RU3 Forestry	Prohibited	Prohibited
RU5 Village	Permissible	Permissible
<b>Residential</b>		
R1 General Residential	Permissible	Permissible
R5 Large Lot Residential	Permissible <sup>1a</sup>	Permissible
<b>Business</b>		
B1 Neighbourhood Centre	Permissible <sup>2</sup>	Permissible <sup>2</sup>
B2 Local Centre	Permissible <sup>2</sup>	Permissible <sup>2</sup>
B3 Commercial Core	Permissible <sup>2</sup>	Permissible <sup>2</sup>
<b>Industrial</b>		
IN1 General Industrial	Prohibited	Prohibited
<b>Special Purpose Zones</b>		
SP1 Special Activities	Prohibited	Prohibited
SP2 Infrastructure	Prohibited	Prohibited
<b>Recreation</b>		

RE1 Public Recreation	Prohibited	Prohibited
RE2 Private Recreation	Prohibited	Prohibited
<b>Environment protection</b>		
C1 National Parks and Nature Reserves	Prohibited	Prohibited
C2 Environmental Conservation	Prohibited	Prohibited
C3 Environmental Management	Permissible <sup>1b</sup>	Prohibited <sup>3</sup>
<b>Waterway</b>		
W1 Natural Waterways	Prohibited	Prohibited
W2 Recreational Waterways	Prohibited	Prohibited
<b>Note 1a</b> Dual Occupancy (Attached) and Dual Occupancy (Detached) are permitted. Minimum land area requirements apply. Subject to land having a dwelling opportunity. Detached dual occupancy subject to maximum separation of 100m (between the dwellings), and other considerations (see Clause 4.2B of the <i>Richmond Valley LEP 2012</i> ).		
<b>Note 1b</b> Dual Occupancy (Attached) is only permitted. Minimum land area requirements apply. Subject to land having a dwelling opportunity.		
<b>Note 2</b> Would have to be undertaken as part of Shop top housing.		
<b>Note 3</b> Secondary Dwellings are prohibited but can be undertaken as dual occupancy, see also Note 1.		
<b>Note 4</b> Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.		

### **Dual Occupancy in Rural Zones - Zone RU1 Primary Production, Zone R5 Large Lot Residential, and Zone E3 Environmental Management**

Clause 4.2B of the *Richmond Valley Local Environmental Plan 2012* provides that:

- dual occupancy is permissible in Zone RU1 Primary Production & Zone R5 Large Lot Residential (as attached or detached); and
- dual occupancy (attached) is permissible in Zone E3 Environmental Management.

The clause provides that dual occupancy is only permitted in these zones if the land has a dwelling opportunity under the clause. Minimum lot size standards apply, see clause 4.1B.

Detached dual occupancy in Zones RU1 and R5 may only be granted development consent if:

- (a) the development will not impair the use of the land for agriculture or rural industries in the locality, and
- (b) if it is practicable, each dwelling will use the same vehicular access to and from a public road, and
- (c) any dwelling will be situated within 100 metres of each other, and
- (d) the land is physically suitable for the development, and
- (e) the land is capable of accommodating the on-site disposal and management of sewage for the development, and
- (f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.

Chapter A-2 of the *Richmond Valley Development Control Plan 2015* provides details on how Council defines attachment for the purposes of rural Dual Occupancy (Attached).

Refer to Item B of this certificate for details on the rural dwelling opportunity status of this land.

## **D. TREE PRESERVATION ORDER**

Part 3 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* creates a permit system to clear vegetation identified by a Development Control Plan (DCP). This may also be known as a 'Tree Preservation Order' or 'TPO'.

The *Richmond Valley DCP 2021* currently does not include provisions to activate a vegetation clearing permit system. Notwithstanding, the clearing of vegetation may require approvals under the *Biodiversity Conservation Act 2016* where:

- the area of clearing will exceed designated thresholds;
- the vegetation has been identified on the Biodiversity Values Map; or
- a 'Test of Significance' shows there is likely to be a significant impact on biodiversity (in particular Threatened Species).

***Is there a DCP containing vegetation clearing restrictions (TPO) applying to this land?***

No – There is no TPO applying within the Richmond Valley Council area.

***Note. This advice does not authorise clearing work in contravention of any Act or law concerned with soil, erosion, protection of catchments, waterways and riparian zones, protection of habitat, protection of native vegetation, protection of threatened species or ecological communities, or the like.***

***Please make reference to the Biodiversity Conservation Act, Local Land Services Act, Fisheries Management Act, Coastal Protection Act, and Water Management Act.***

## **E. POTENTIAL CONTAMINATION**

The following advice is provided as to whether the land has the potential to be contaminated from a current or past land use activity. The range of matters covered by this advice include where-

- Council has received notice from the Environment Protection Authority (EPA) that the land is significantly contaminated
- the land is located within a 200 metre investigation zone for a Cattle Tick Dip Site
- the land was part of the Evans Head Aerodrome
- the land is identified as potentially contaminated land within Council's register
- Council has received notice from NSW Fair Trading that the premises is identified on the Loose-fill Asbestos Insulation Register
- Council has received records from NSW Public Works Department regarding asbestos contamination from properties affected by the 2019 bushfires.

**Note.** This response has been made in regard to information Council has to hand on the likely contamination of the land. Advice provided should not be interpreted as a guarantee that contamination does or does not exist on the land. It is recommended that a preliminary investigation under in accordance with NSW EPA statutory guidelines be undertaken.

**Note.** Where any person becomes aware of potential contamination on land it should be reported to Council and the Environment Protection Authority (EPA) for further investigation.

***Is there potential for the land to be contaminated?***

No – This land is not known to be contaminated.

## **F. OTHER GENERAL MATTERS TO BE NOTED**

### **(1) Right to Farm**

Richmond Valley Council respects the right of persons to carry out legitimate rural and agricultural uses and practices on rural lands.

Council will not support any action to interfere with the legitimate rural and agricultural use of land.

Intending purchasers are advised that legitimate and agricultural uses of land may include:

Logging and milling of timber; livestock feed lots; piggeries; dairies; chicken farms; clearing and cultivation of land; bush fire hazard reduction measures; construction of fire breaks; construction of dams, drains and contour banks; fencing; use of agricultural machinery (for example tractors, chainsaws, motor bikes etc.); pumping and irrigation; pesticide spraying (including herbicides, insecticides, fungicides etc.); aerial spraying;

animal husbandry practices (for example castration, dehorning etc.); driving livestock on roads; silage production; construction of access roads and tracks; slashing, mowing or harvesting vegetation; planting of woodlots; forestry; tea tree oil distillation; quarrying; mining and the like.

Intending purchasers of rural land who consider they may have difficulty in living with legitimate rural and agricultural practices being carried out on adjacent land should seriously consider their position.

## **(2) Electricity**

It should not be assumed that reticulated electricity is available in all areas of the Council, or that the presence of powerlines on or near a property can service development on the land. Furthermore, there will be instances where subdivisions have not required connection to mains power due to the prohibitive cost of providing electrical infrastructure, relative to potential alternative power supply options.

Conditions of supplying mains power should be ascertained from Essential Energy.

## **(3) Building**

From the 1 July 1998 all building related matters became incorporated into the *Environmental Planning and Assessment Act 1979*. It is an offence to carry out any building work in the Council area without Council consent to a development application and construction certificate. Notwithstanding, some development types are classified as exempt development or complying development under subject to meeting predefined requirements.

Reference should be made to *SEPP (Exempt and Complying Development Code) 2008* and Schedules 2 & 3 of the *Richmond Valley Local Environmental Plan 2012* for a list of exempt and complying development types and their requirements.

For further information please contact Council's Development Assessment Section.

## **(4) Water and Sewer Notification(s)**

Council's Water and Sewer Section have requested that information relating to the following be notated within a Planning Certificate. These include whether:

- the owner or a former owner has waived access to Sewer Availability on the land;
- there is a Non-Compliant Boundary Shaft issue (specifically where it relates to the boundary shaft being located under a building or structure on the land); and/or
- there is a Capitalised Consumption Charge applying to the land.

### ***Is there a Water/Sewer Notification applying to this land?***

No - There are no notifications (regarding Sewer Availability waived, a Non-Compliant Boundary Shaft (which is located under built construction), or Special Capitalised Water Consumption Charges) to declare.

## **(5) Any other matters specifically concerning this land**

There are no additional matters to be noted in this certificate.

**SIGNATURE**

For further information regarding this Certificate, please contact Council's Customer Service on (02) 66600300 or email [council@richmondvalley.nsw.gov.au](mailto:council@richmondvalley.nsw.gov.au)



Vaughan Macdonald  
**General Manager**

## APPENDIX 1 – Matters to be specified in a Planning Certificate

Clause 279 of the *Environmental Planning and Assessment Regulation 2000* prescribes that matters specified in Schedule 4 are matters to be specified within a certificate under Section 10.7(2) (formerly Section 149 (2)).

### 1 Names of relevant planning instruments and DCPs

- (1) The names of each environmental planning instrument that applies to the carrying out of development on the land.
- (2) The names of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director-General has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved).
- (3) The names of each development control plan that applies to the carrying out of development on the land.
- (4) In this clause, proposed environmental planning instrument includes a planning proposal for a LEP or a draft environmental planning instrument.

### 2 Zoning and land use under relevant LEPs

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a SEPP or proposed SEPP) that includes the land in any zone (however described):

- (a) the identity of the zone, whether by reference to a name (such as “Residential Zone” or “Heritage Area”) or by reference to a number (such as “Zone No 2 (a)”);
- (b) the purposes for which the instrument provides that development may be carried out within the zone without the need for development consent,
- (c) the purposes for which the instrument provides that development may not be carried out within the zone except with development consent,
- (d) the purposes for which the instrument provides that development is prohibited within the zone,
- (e) whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed,
- (f) whether the land includes or comprises critical habitat,
- (g) whether the land is in a conservation area (however described),
- (h) whether an item of environmental heritage (however described) is situated on the land.

### 2A Zoning and land use under State Environmental Planning Policy (Sydney region Growth Centres) 2006

To the extent that the land is within any zone (however described) under:

- (a) Part 3 of the *State Environmental Planning Policy (Sydney region Growth Centres) 2006* (the 2006 SEPP), or
- (b) a Precinct Plan (within the meaning of the 2006 SEPP). or
- (c) a proposed Precinct Plan that is or has been the subject of community consultation or on public exhibition under the Act,

the particulars referred to in clause 2(a)—(h) in relation to that land (with a reference to “the instrument” in any of those paragraphs being read as a reference to Part 3 of the 2006 SEPP, or the Precinct Plan or proposed Precinct Plan, as the case requires).

### 3 Complying development

- (1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.
- (3) If the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement that a restriction applies to the land, but it may not apply to all of the land, and that council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.

**4, 4A Repealed****4B Annual charges under Local Governmental Act 1993 for coastal protection services that relate to existing coastal protection works**

In relation to a coastal council—whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of the Act).

**Note.** “Existing coastal protection works” are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the *Local Government Act 1993*.

**5 Mine subsidence**

Whether or not the land is proclaimed to be a mine subsidence district within the meaning of section 15 of the *Coal Mine Subsidence Compensation Act 2017*.

**6 Road widening and road realignment**

Whether or not the land is affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the *Roads Act 1993*, or
- (b) any environmental planning instrument, or
- (c) any resolution of the council.

**7 Council and other public authority policies on hazard risk restrictions**

Whether or not the land is affected by a policy:

- (a) adopted by the council, or
- (b) adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council,

that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

**7A Flood related development controls information**

- (1) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.
- (2) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.
- (3) Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the *Standard Instrument (Local Environmental Plans) Order 2006*.

**8 Land reserved for acquisition**

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

**9 Contributions plans**

The name of each contributions plan applying to the land.

**9A Biodiversity certified land**

If the land is biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016*, a statement to that effect.

**Note.** Biodiversity certified land includes land certified under Part 7AA of the *Threatened Species Conservation Act 1995* that is taken to be certified under Part 8 of the *Biodiversity Conservation Act 2016*.

**10 Biobanking stewardship sites**

If the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*, a statement to that extent (but only if the council has been notified of the existence of the agreement by the Chief Executive of the Office of Environment and Heritage).

**Note.** Biodiversity stewardship agreements include biobanking agreements under Part 7A of the *Threatened Species Conservation Act 1995* that is taken to be biodiversity stewardship agreements under Part 5 of the *Biodiversity Conservation Act 2016*.

**10A Native vegetation clearing set asides**

If the land contains a set aside area under section 60ZC of the *Local Land Services Act 2013*, a statement to that effect (but only if the council has been notified of the existence of the set aside area by Local Land Services or it is registered in the public register under that section).

**11 Bush fire prone land**

If any of the land is bush fire prone land (as defined in the Act), a statement that all or, as the case may be some of the land is bush fire prone land.

If none of the land is bush fire prone land, a statement to that effect.



**12 Property Vegetation Plans**

If the land is land to which a property vegetation plan under Part 4 of the *Native Vegetation Act 2003* (and that continues in force) applies, a statement to that effect (but only if the council has been notified of the existence of the plan by the person or body that approved the plan under that Act).

**13 Orders under Trees (Disputes Between Neighbours) Act 2006**

Whether an order has been made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land (but only if the council has been notified of the order).

**14 Directions under Part 3A**

If there is a direction by the Minister in force under section 75P(2)(c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect, a statement to that effect identifying the provision that does not have effect.

**15 Site compatibility certificates and conditions for seniors housing**

If the land is land to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies:

- (a) a statement of whether there is a current site compatibility certificate (of which the council is aware), issued under clause 25 of that Policy in respect of proposed development on the land and, if there is a certificate, the statement is to include:
  - (i) the period for which the certificate is current, and
  - (ii) that a copy may be obtained from the head office of the Department, and
- (b) a statement setting out any terms of a kind referred to in clause 18(2) of that Policy that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land.

**16 Site compatibility certificates for infrastructure**

A statement of whether there is a valid site compatibility certificate (of which the council is aware), issued under clause 19 of *State Environmental Planning Policy (Infrastructure) 2007* in respect of proposed development on the land and, if there is a certificate, the statement is to include:

- (a) the period for which the certificate is valid, and
- (b) that a copy may be obtained from the head office of the Department of Planning.

**17 Site compatibility certificates and conditions for affordable rental housing**

- (1) A statement of whether there is a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include:
  - (a) the period for which the certificate is current, and
  - (b) that a copy may be obtained from the head office of the Department.
- (2) A statement setting out any terms of a kind referred to in clause 17(1) or 37(1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.

**18 Paper subdivision information**

- (1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.
- (2) The date of any subdivision order that applies to the land.
- (3) Words and expressions used in this clause have the same meaning as they have in Part 16C of this Regulation.

**19 Site verification certificates**

A statement of whether there is a current site verification certificate, of which the council is aware, in respect of the land and, if there is a certificate, the statement is to include:

- (a) the matter certified by the certificate, and

**Note.** A site verification certificate sets out the Planning Secretary's opinion as to whether the land concerned is or is not biophysical strategic land or critical industry cluster land—see Division 3 or Part 4AA of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.
- (b) the date on which the certificate ceases to be current (if any), and
- (c) that a copy may be obtained from the head office of the Department.

**20 Loose-fill asbestos insulation**

If the land includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division, a statement to that effect.

**21 Affected building notices and building product rectification orders**

- (1) A statement of whether there is any affected building notice of which the council is aware that is in force in respect of the land.
- (2) A statement of:
  - (a) whether there is any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with, and
  - (b) whether any notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.
- (3) In this clause:

**affected building notice** has the same meaning as in Part 4 of the *Building Products (Safety) Act 2017*.

**building product rectification order** has the same meaning as in the *Building Products (Safety) Act 2017*.

**Note.** The following matters are prescribed by section 59(2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:

- (a) that the land to which the certificate relates is significantly contaminated land within the meaning of that Act--if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
- (b) that the land to which the certificate relates is subject to a management order within the meaning of that Act--if it is subject to such an order at the date when the certificate is issued,
- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act--if it is the subject of such an approved proposal at the date when the certificate is issued,
- (d) that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act--if it is subject to such an order at the date when the certificate is issued,
- (e) that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act--if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

**Note.** Section 26 of the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 provides that a planning certificate must include advice about any exemption under section 33 or authorisation under section 24 of that Act if the Council is provided with a copy of the exemption or authorisation by the Co-ordinator General under that Act.

## APPENDIX 2 – Contaminated Land Management Act 1997

The following is an extract from the *Contaminated Land Management Act 1997* regarding information to be supplied within a Planning Certificate. The extract also contains information on the duty to report contamination where there is a significant risk of harm.

### Part 5 Information

#### Section 59 Local authorities to be informed

- (1) The EPA must, as soon as practicable after the occurrence of any of the following in relation to land, inform the local authority for the area in which land is situated of that matter:
  - (a) the land being declared to be significantly contaminated land or ceasing to be significantly contaminated land,
  - (b) a management order in relation to the land being served on a person or being revoked,
  - (c) the EPA giving its approval or withdrawing its approval for a voluntary management proposal in relation to the land or a voluntary management proposal in relation to the land being completed to the satisfaction of the EPA,
  - (d) an ongoing maintenance order in relation to the land being served on a person or being revoked.
- (2) For the purposes of section 10.7 of the *Environmental Planning and Assessment Act 1979*, the following matters are prescribed in addition to any other matters, prescribed by the regulations under that section, to be specified in a certificate under that section:
  - (a) that the land to which the certificate relates is significantly contaminated land—if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
  - (b) that the land to which the certificate relates is subject to a management order—if it is subject to such an order at the date when the certificate is issued,
  - (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal—if it is the subject of such an approved proposal at the date when the certificate is issued,
  - (d) that the land to which the certificate relates is subject to an ongoing maintenance order—if it is subject to such an order at the date when the certificate is issued,
  - (e) that the land to which the certificate relates is the subject of a site audit statement—if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

**Note—**  
Section 53B requires site auditors to furnish local authorities with copies of site audit statements relating to site audits for the purposes of statutory requirements.
- (3) If a local authority, under section 10.7(5) of the *Environmental Planning and Assessment Act 1979*, includes advice in a certificate in relation to a matter set out in subsection (2) (a)–(e) that no longer applies to the land, the authority is to make this clear on the certificate.

#### Section 60 Duty to report contamination

- (1) A person whose activities have contaminated land must notify the EPA in writing in accordance with this section that the land has been so contaminated.  
Maximum penalty—
  - (a) in the case of a corporation—\$1,000,000, and in the case of a continuing offence, a further penalty of \$77,000 for each day the offence continues, or
  - (b) in the case of an individual—\$250,000, and in the case of a continuing offence, a further penalty of \$33,000 for each day the offence continues.
- (2) An owner of land that has been contaminated (whether before or during the owner's ownership of the land) must notify the EPA in writing in accordance with this section that the land has been so contaminated.  
Maximum penalty—
  - (a) in the case of a corporation—1,500 penalty units, and in the case of a continuing offence, a further penalty of 700 penalty units for each day the offence continues, or
  - (b) in the case of an individual—700 penalty units, and in the case of a continuing offence, a further penalty of 300 penalty units for each day the offence continues.
- (3) A person is required to notify the EPA under subsection (1) or (2) only if:
  - (a) each of the following is true:
    - (i) the substance contaminating the land (the contaminant) or any by-product of the contaminant has entered or will foreseeably enter neighbouring land, the atmosphere, groundwater or surface water,
    - (ii) the regulations prescribe for the purposes of this subparagraph, or the guidelines specify, a level of the contaminant or by-product in the neighbouring land, atmosphere, groundwater or surface water,
    - (iii) the level of the contaminant or by-product after that entry is, or will foreseeably be, above the level prescribed or specified and will foreseeably continue to remain above that level, or
  - (b) a guideline specifies a level of the contaminant in soils with respect to a current or approved use of the land and the level of the contaminant on or in any part of the soil on that land is equal to or above that specified in the guideline and a person has been, or foreseeably will be, exposed to the contaminant or any by-product of the contaminant, or
  - (c) the contamination meets any other criteria that may be prescribed by the regulations for the purposes of this subsection.
- (4) A person is required to notify the EPA under this section as soon as practicable after the person becomes aware of the contamination.
- (5) A person is taken to be aware of contamination for the purposes of this section if the person ought reasonably to have been aware of the contamination.
- (6) A notice under this section is to be in a form approved by the EPA and is to specify the following matters to the extent that they are within the knowledge of the person required to give the notice:
  - (a) the location of the land,
  - (b) the activities that have contaminated the land,
  - (c) the nature of the contamination,
  - (d) the nature of the risk posed by the contamination,
  - (e) any other matter prescribed by the regulations.

- (7) Information provided by a person for the purpose of complying with this section is not admissible as evidence in any proceedings against that person for an offence under the environment protection legislation (except in proceedings for an offence under this section).
- (8) The EPA may identify land as significantly contaminated land or make an order under Part 3 in respect of any person, whether or not the person has notified the EPA in accordance with this section.
- (9) The following are to be taken into account in determining when a person should reasonably have become aware of contamination:
- (a) the person's abilities, including his or her experience, qualifications and training,
  - (b) whether the person could reasonably have sought advice that would have made the person aware of the contamination,
  - (c) the circumstances of the contamination.
- (10) The regulations may exempt, or provide for the exemption of:
- (a) any person or class of persons, or
  - (b) any premises or class of premises, or
  - (c) any area or class of areas, or
  - (d) any activity or class of activities, or
  - (e) any other matter or thing or class of matters or things, from any specified provision or provisions of this section in such circumstances (if any) and subject to such conditions (if any) as may be specified or referred to in the regulations.
- (11) In this section, a reference to the level of a contaminant or by-product of a contaminant includes a reference to the concentration of the contaminant or by-product.

**Note—**

An offence against subsection (1) or (2) committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation—see section 98.

## **APPENDIX 3 – Richmond Valley Local Environmental Plan 2012 – Itemised list of Parts and Clauses**

The following is a summary of clauses from the LEP.

**(NOTE: The following table is a summary only. Reference must be made to a current edition of the relevant local environmental plan for specific details of provisions and their application to the subject parcel of land)**

**Note:** Council's local environmental plan may be freely downloaded from the Legislation website at –

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

or may be viewed or purchased from Council's Offices at Casino and Evans Head.

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### **Part 1 Preliminary**

- 1.1 Name of Plan
- 1.1AA Commencement
- 1.2 Aims of Plan
- 1.3 Land to which Plan applies
- 1.4 Definitions
- 1.5 Notes
- 1.6 Consent authority
- 1.7 Maps
- 1.8 Repeal of planning instruments applying to land
- 1.8A Savings provision relating to development applications
- 1.9 Application of SEPPs
- 1.9A Suspension of covenants, agreements and instruments

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### **Part 2 Permitted or prohibited development**

- 2.1 Land use zones
- 2.2 Zoning of land to which Plan applies
- 2.3 Zone objectives and land use table
- 2.4 Unzoned land
- 2.5 Additional permitted uses for particular land
- 2.6 Subdivision—consent requirements
- 2.7 Demolition requires development consent
- 2.8 Temporary use of land

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### **Land Use Table**

### **Part 3 Exempt and complying development**

- 3.1 Exempt development
- 3.2 Complying development
- 3.3 Environmentally sensitive areas excluded

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### **Part 4 Principal development standards**

- 4.1 Minimum subdivision lot size
- 4.1AA Minimum subdivision lot size for community title schemes
- 4.1A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental protection zones
- 4.1B Minimum lot sizes for dual occupancies
- 4.1C Exceptions to minimum lot size for dual occupancies
- 4.2 Rural subdivision
- 4.2A Exceptions to minimum lot sizes for certain rural subdivisions
- 4.2B Erection of dual occupancies and dwelling houses on land in Zones RU1, R5 and E3
- 4.2C Exceptions to minimum subdivision lot size for lot boundary adjustments
- 4.3 Height of buildings
- 4.4 [Not adopted]
- 4.5 [Not adopted]
- 4.6 Exceptions to development standards

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### **Part 5 Miscellaneous provisions**

- 5.1 Relevant acquisition authority
- 5.1A Development on land intended to be acquired for a public purposes
- 5.2 Classification and reclassification of public land
- 5.3 Development near zone boundaries
- 5.4 Controls relating to miscellaneous permissible uses
- 5.5 [Repealed 03/04/2018]
- 5.6 Architectural roof features
- 5.7 Development below mean high water mark
- 5.8 Conversion of fire alarms
- 5.9 [Repealed 25/08/2017]
- 5.9AA [Repealed 25/08/2017]
- 5.10 Heritage conservation
- 5.11 Bush fire hazard reduction
- 5.12 Infrastructure development and use of existing buildings of the Crown

- 5.13 Eco-tourist facilities
- 5.14 [Not adopted]
- 5.15 [Not adopted]
- 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones
- 5.17 [Not Applicable]
- 5.18 Intensive livestock agriculture
- 5.19 Pond-based, tank-based and oyster aquaculture
- 5.21 Flood Planning

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### ***Part 6 Additional local provisions***

- 6.1 Acid sulfate soils
- 6.2 Essential services
- 6.3 Earthworks
- 6.4 Protection of historic New Italy village area
- 6.5 [Repealed 14/07/2021]
- 6.6 Terrestrial biodiversity
- 6.7 Landslip risk
- 6.8 Riparian land and watercourse
- 6.9 Drinking water catchments
- 6.10 Wetlands
- 6.11 Airspace operations
- 6.12 Development in areas subject to aircraft noise
- 6.13 Development of the Glebe, Coraki
- 6.14 Rural workers' dwellings
- 6.15 Location of sex services premises

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### ***Schedule 1 Additional permitted uses***

### ***Schedule 2 Exempt development***

### ***Schedule 3 Complying development***

### ***Schedule 4 Classification and reclassification of public land***

### ***Schedule 5 Environmental heritage***

### ***Schedule 6 Pond-based and tank-based aquaculture***

### ***Dictionary***

**Note:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.

## **APPENDIX 4 – Richmond Valley Development Control Plan 2021 – Itemised list of Parts and Chapters**

The is a list of Parts and Chapters forming the DCP.

**Note:** Richmond Valley Development Control Plan 2021 repealed DCP15 upon commencement on 1 August 2021.

**Introduction** – name of Plan, adoption details, amendments etc.

**Part A Residential Development**

- A-1 Dwelling Houses in the R1 and RU5 Zones
- A-2 Dwelling Houses in the RU1, R5 & E3 Zones
- A-3 Dual Occupancies in the R1 Zone and RU5 Zones
- A-4 Dual Occupancies
- A-5 Secondary Dwellings in the R1, R5 & E3 Zones
- A-6 Ancillary Development in the R1 and RU5 Zones
- A-7 Ancillary Development in the RU1, R5 & E3 Zones
- A-8 Multi Dwelling Housing and Residential Flat Buildings
- A-9 Shop Top Housing
- A-10 Seniors Housing & Affordable Housing
- A-11 DCP Explanation Notes

**Part B Commercial Development**

**Part C Industrial Development**

**Part D Rural Land Uses**

- D1 Roadside Stalls
- D2 Kiosks
- D3 Intensive Livestock Agriculture

**Part E Tourist and Visitor Accommodation**

- E1 Eco-tourist facilities
- E2 Bed and Breakfast Accommodation
- E3 Serviced Apartments
- E4 Hotel and Motel Accommodation
- E5 Backpackers Accommodation
- E6 Farm Stay Accommodation
- E7 Manufactured Home Estates, Caravan Parks and Camping Grounds

**Part F Signage**

**Part G Subdivision**

**Part H Natural Resources and Hazards**

- H1 Flooding
- H2 Acid Sulfate Soils (ASS)
- H3 Natural Resource Sensitivities (NRS)

**Part I Other Consideration**

- I1 Environmental Heritage
- I2 Development in, on, over or under Public Road
- I3 Setbacks
- I4 Car Parking Requirements
- I5 Landscaping Guidelines
- I6 Animal Boarding and Training Establishments
- I7 Noise Impact Assessment (NIA)
- I8 Social Impact Assessment (SIA)
- I9 Water Sensitive Urban Design (WSUD)
- I10 Crime Prevention Through Environmental Design (CPTED)
- I11 Land Use Risk Conflict Risk Assessment (LUCRA)
- I12 Context and Site Analysis
- I13 Use of Shipping Containers
- I14 Sex Service Premises, Restricted Premises and Home Occupation (Sex Services)
- I15 Lane Widening and Access to Narrow Streets
- I16 Historic New Italy Village Area

**Note:** Amendments to the Standard Instrument LEP Template commence on 1 December 2021 to convert all Environmental E Zones to Conservation C Zones. Transitional provisions provide that any document referencing an E Zone (ie E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management) is taken to include a reference to the equivalent C Zone (ie C1 National Parks and Nature Reserves, C2 Environmental Conservation or C3 Environmental Management) from the 1 December 2021.