

Circular	DRAFT PN
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Related	PN 11-001, PN 11-002, PN 11-003

DRAFT

Schedule 1 Additional Permitted Uses

The purpose of this practice note is to provide guidance to councils on including additional permitted uses for particular land through Schedule 1 of local environmental plans (LEPs) under the Standard Instrument.

Introduction

The Standard Instrument adopts a land use zone-based format for identifying permitted and prohibited land uses. Any uses permitted within the Land Use Table are applicable to the entire zone it relates to.

Clause 2.5 of the Standard Instrument Order allows councils to permit additional uses for particular land. These uses are permitted in addition to those identified in the LEP Land Use Table or other planning instruments such as the Infrastructure SEPP for that site only.

Additional permitted uses for particular land are to be inserted in Schedule 1 of the LEP.

Schedule 1 should only be used in exceptional circumstances

For reasons of clarity, land use permissibility should preferably be controlled by the zones and the Land Use Table.

Where this is not possible and the intended outcome is adequately justified by council, the use of Schedule 1 may be acceptable.

Additional listings in the LEP Schedule 1 should be minimised and should only proceed where council can demonstrate that there is no other acceptable solution to progress the matter.

For example, council should not use Schedule 1 where a rezoning via a planning proposal or adoption of a Development Control Plan can achieve the same outcome. In most cases a site could be rezoned to facilitate the use or the particular use could be included in the zone land use table to permit it in that zone across the local government area.

Principles for drafting Schedule 1

The following principles should be applied when considering including additional permitted uses in the LEP Schedule 1:

- Clearly identify the land affected including the address, lot and DP numbers.
- Entries are to be listed by alphabetical order of suburb and then by street name and number, where possible.
- Only use terms included in Land Use Table Direction 5 in the Standard Instrument Order.
- Development standards should be identified on the relevant maps where applicable (e.g. FSR/height/lot size). Other conditions are to be minimised.

Councils can map additional permitted uses

While this is not compulsory, councils may choose to identify the land where additional permitted uses apply on an Additional Permitted Uses Map (APU Map).

In some situations, it may actually be preferable to have the relevant land identified on an APU Map, e.g. if part of a lot is subject to the additional use.

Even if additional permitted uses are mapped, a description of the development and land affected in LEP Schedule 1 is still required to meet Clause 2.5 of the Standard Instrument.

Further information

Councils are encouraged to liaise with the relevant regional planning teams of the department before proceeding with a proposal to list an item in Schedule 1 of an LEP. This will ensure all relevant options are considered and discussed, and that claims for exceptional circumstances can be justified.

A copy of this practice note, the Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the department's website:

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

The current version of the Standard Instrument Order is available on the NSW Parliamentary Counsel's office website: www.legislation.nsw.gov.au under 'Browse A-Z In Force'.

If you have further enquiries, please contact the department's Information Centre on ph: 02 9228 6333 or email: information@planning.nsw.gov.au.

Authorised by:

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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