# Part F

## Environmental Management & Hazards

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# F1 Introduction

A range of environmental constraints and opportunities exist and affect human activities and development across the Blayney Local Government Area (LGA). Any proposal should demonstrate how the development will address these opportunities and constraints to ensure that:

a) The impact on key ecological systems and environmentally sensitive areas is minimised.

b) The development will be protected from natural hazards and human-caused impacts; and

c) The design responds to the environment and character of the site and surrounds.

Environmental hazards can include but are not limited to flooding and stormwater management, bushfire, contamination and naturally occurring asbestos, noise and vibration, odour and a need to provide buffers between sensitive and higher impact land uses.

Environmental management can include but is not limited to protection and enhancement of significant vegetation and biodiversity, riparian lands and watercourses, drinking water catchments, groundwater systems, and land and soil-related issues.

***TO FIND OUT IF YOUR LAND IS AFFECTED BY THESE CLAUSES**, please:*

*a) Go to the NSW Planning Portal on the internet at [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au);*
*b) Click on **FIND A PROPERTY** and insert the address of the relevant property.*
*c) Find the Section entitled **PLANNING LAYERS ASSOCIATED WITH PROPERTY**.*
*d) Click on the relevant layer in the following list and it will provide a short description of the layer as well as a map of the layer in the **PLANNING VIEWER:***

- ***FLOOD PLANNING***
- ***TERRESTRIAL BIODIVERSITY***
- ***RIPARIAN LANDS AND WATERCOURSES***
- ***GROUNDWATER VULNERABILITY***
- ***DRINKING WATER CATCHMENT***
- ***BUSHFIRE PRONE LANDS***

*Please come to Council's offices if you wish to view these maps or seek written confirmation from Council officers.*

# F2 Buffers to Sensitive Land Uses

## F2.1 Application of this Section

This Section applies to a proposed development in Blayney LGA where:

1) A **sensitive land use** is proposed within the buffer distances to an existing or likely **higher impact land use** or an industrial zone; or
2) A **higher impact land use** is proposed within the buffer distances to an existing or likely future sensi**tive land use**,

in accordance with the recommended buffers set out this clause and/or **Clause 6.7 – Development within a designated buffer area** in **BLEP2012** (400m from a Waste Depot or Sewage Treatment Plant).

A **'higher impact land use'** may include, but is not limited to:

a) Extractive industries and mining.
b) Most industrial uses except light industry and high technology industry that by definition have no significant impacts.
c) Commercial uses that may produce significant dust, noise, odour or traffic generation.
d) Recreation uses that may produce significant dust, noise, odour or traffic generation.
e) Intensive agricultural uses (taking into account the 'right to farm' – see below).
f) Other uses that, at the discretion of Council, would be expected to produce significant impacts on a **sensitive land use** within 500m of that use.

**'Buffer'** or **'Buffer Area'** means an area of prescribed width between adjoining land uses or development that is created for the purpose of mitigating the impacts of one or more of those land uses, and in which the carrying out of certain development is restricted.

**'Sensitive land use'** is any land use where there are users that are likely to be significantly and regularly affected by emissions from other higher-impact land uses. It extends beyond residential land uses to include, for example, tourist and visitor accommodation, hospitals, aged care and seniors living, childcare facilities, playground and recreation areas, and some public buildings where a reasonable level of amenity (suitable for each use) must be protected.

## F2.2 Objectives of this Section

1) To incorporate appropriate buffers or setbacks between **sensitive land uses** (or zones that may support those **sensitive land uses**) and **higher impact land uses** (or zones that may support those uses) to avoid or mitigate against that impact.
2) To promote economic certainty by ensuring that **higher impact land uses** are located so as to allow their ongoing operation and future expansion with minimal risk of constraints due to impacts on neighbouring **sensitive land uses**.

## F2.3 Noise & Vibration

1) Where any proposed development is likely to:
   a) Generate significant noise and/or vibration that may impact on existing **sensitive land uses** in reasonable proximity to the development site; or
   b) Be significantly impacted by potential noise and/or vibration from an existing (or future expanded) development or infrastructure (including a state/regional road or railway line),

   then the applicant may be required to lodge a **Noise (and/or Vibration) Assessment** (prepared by a suitably qualified acoustic consultant) that demonstrates how the proposed development has been located, designed, and/or managed to avoid or mitigate those impacts to/from the proposed development in accordance with the relevant guidelines.
2) The design or construction of building(s) or areas that may emit significant noise should consider:
   a) Location, proximity, and buffers to protect **sensitive land uses**.
   b) Terrain and amplification/direction of noise.
   c) Background noise levels.
   d) Enclosure of noisy area(s) and suitable acoustic insulation.
   e) Avoidance of opening(s) of enclosed noisy area(s) towards **sensitive land uses** that may direct noise to a **sensitive land use**.
   f) Suitable hours of operation and transport movement, loading/unloading etc.
   g) Any other factor that would exacerbate likely noise.
3) Any **Noise (and/or Vibration) Assessment** relating to development near an existing state or regional road or railway line should address the requirements of *State Environmental Planning Policy (Transport and Infrastructure) 2021* and the *NSW Department of Planning (2008) Development near Rail Corridors and Busy Roads – Interim Guideline.*
4) Any **Noise Assessment** involving a noise source set out in the *Protection of the Environment Operations Act 1997* must address the requirements (where relevant) of the *NSW Noise Policy for Industry (2017)* (see https://www.epa.nsw.gov.au/Your-environment/Noise/industrial-noise/Noise-Policy-for-Industry-%282017%29).
5) Any **Noise (and/or Vibration) Assessment** relating to an industrial land use (particularly an existing industrial use) within Zone E4 General Industrial or E3 Productivity Support Zone E1 Local Centre should consider the economic importance of facilitating industrial and business development in those zones.

***Note:*** *The Protection of the Environment Operations Act 1997 and Regulations provide limitations to emissions from development and the applicant may need to seek a separate approval under this legislation.*

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## F2.4 Odour & Dust

*In addition to general odour and dust requirements, this clause seeks to clarify the application of **Clause 6.7 – Development within a designated buffer area** in **BLEP2012** that applies to development in proximity to an existing sewage treatment plant (STP) or waste depot.*

1) Where any proposed development is likely to:

   a) Generate significant odour that may impact on existing **sensitive land uses** in reasonable proximity to the development site; or

   b) Be significantly impacted by potential odour from an existing (or future expanded) development or infrastructure (including a state / regional road or railway line); or

   c) Where any proposed development occurs on land identified as '**Sewage Treatment Plant and Waste Depot Buffer'** on the **Sewage Treatment Plant and Waste Depot Buffer Map** (i.e. within 400m of the boundary of these facilities),

   then Council may require the applicant to lodge an **Odour and/or Dust Assessment** (prepared by a suitably qualified consultant in accordance with Council's *Development and Building Guide*) that demonstrates how the proposed development has been located, designed, and/or managed to avoid or mitigate those impacts to/from the proposed development in accordance with the relevant guidelines.

2) The **Odour and/or Dust Assessment** should demonstrate how odour and/or dust will be managed on the proposed development site to avoid any adverse impact on the development and/or surrounding land uses (whichever is relevant). This should be prepared by a suitably qualified consultant in accordance with the relevant guidelines.

3) Vehicle entry, exits, loading, unloading and internal manoeuvring areas should be sealed or have a surface agreed with Council's engineers to minimise the emission of dust from trafficable surfaces for uses that have higher traffic generation or close proximity to **sensitive land uses**.

## F2.5 On-Site Effluent Disposal

1) Where an on-site effluent disposal system is proposed to manage sewage, the on-site systems must be suitably sized and able to operate on the lot (taking into account the proposed use and its likely liquid waste / effluent production) without impacting on development on the subject lot, neighbouring lots or surface or ground water systems, and don't require excessive vegetation removal.

On-site sewage management facilities must be either:

a) Located on land at or above the Flood Planning Level (FPL); or

b) Sited and designed (demonstrated in a Geotechnical (Effluent) Report) to withstand known or likely flooding conditions (including consideration of structural adequacy, avoidance of inundation and flushing/leaking of effluent into flowing flood waters).

Any on-site sewage systems that disperse only partly treated effluent to the natural environment (including standard septic absorption trench systems) are *generally* not permitted on land below the **Flood Planning Level (FPL)**. See **Part F4 – Flood** for more details.

2) Any proposed lots or on-site effluent disposal systems should be located so as to provide appropriate buffers to watercourses and buildings in accordance with:

a) The *Onsite Wastewater Management Guidelines 2025* .

b) *Australian Standard 1547 – On-site domestic wastewater management* (as amended); and

3) An **Effluent (Geo-technical) Report** must be prepared by a suitably qualified consultant that supports the design and location of any on-site system in accordance with Council's *Development and Building Guide, Australian Standard AS1547,* and relevant NSW Government policy.

4) On lots with an area less than 2,000m$^2$ the nominated effluent disposal areas must allow for:
   a) Suitable areas for dwellings and outbuildings, access, open space, and buffers to adjoining lots and watercourses; and
   b) A 'reserve area' at least equivalent in size to the nominated effluent disposal area that is recommended for disposal in the supporting **Geo-technical (Effluent) Report**.

   ***Note:*** *The 'reserve area' is intended to allow a secondary disposal area to be constructed if the primary disposal area fails which is common in some villages.*

5) Any water for reuse-use must be treated in accordance with the relevant NSW Health Guidelines and any other relevant Australian Standards using certified systems.

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## F2.6 Buffers to Sensitive Land Uses

Proposed development should consider the recommended buffers between potentially higher impact land uses and **sensitive land uses** set out in the tables below. Where the recommended buffers cannot be met then the applicant must demonstrate/address:

1) Why an alternative available site would not be more suitable for the proposed development.
2) What mechanisms will be utilised to minimise or mitigate any impacts to/from the proposed development.
3) How the proposed development will meet the objectives of this Section and the proposed land use.

| **LAND USE / SEPARATION (metres)**<br>*These may be subject to further assessment in accordance with NSW Government Guidelines.*<br>*Other buffers or setbacks may apply under other legislation or policies for items such as: Utilities; Airports; Rifle ranges; Bushfire protection; and Heritage.* | **Residential & Urban Dev.** | **Rural Dwellings** | **Education Facilities** | **Rural Tourist Accommodation** | **Property Boundary** |
|---|---|---|---|---|---|
| **Piggeries, feedlots, poultry sheds & waste storage** | 500 | 400 | 1000 | 400 | 100 |
| **> 500 Pigs/Cattle Feedlot**<br>**≤ 500 Pigs/Cattle Feedlot/Poultry Farms** | 300 | 200 | 500 | 200 | 20 |
| **Dairies & Waste Utilisation Area(s)** | 500 | 250 | 250 | 250 | 20 |
| **Other intensive livestock operations** | 500 | 300 | 500 | 300 | 100 |
| **Intensive plant agriculture and horticulture (where significant spraying is used or it is sensitive to sprays)** | 50 if a vegetated buffer of minimum 30m is provided 100 if no vegetated buffer (notification as per *Pesticides Act*) | | | | N/A |
| **Rural industries (incl. sawmills & grain mills)** | 1000 | 500 | 500 | 500 | 50 |
| **Abattoirs** | 1000 | 800 | 1000 | 800 | 100 |
| **Potentially hazardous or offensive industry or hazardous storage establishment** | 1000 | 1000 | 1000 | 1000 | 100 |
| **Heavy industry (other than hazardous/offensive industry)** | 800 | 500 | 1000 | 500 | N/A |
| **Mining & extractive industries** | 500 or 1000 if it involves blasting | | | | N/A |

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| LAND USE / SEPARATION (metres)<br>*These may be subject to further assessment in accordance with NSW Government Guidelines.*<br>*Other buffers or setbacks may apply under other legislation or policies for items such as: Utilities; Airports; Rifle ranges; Bushfire protection; and Heritage.* | Residential & Urban Dev. | Rural Dwellings | Education Facilities | Rural Tourist Accommodation | Property Boundary |
|---|---|---|---|---|---|
| **Animal Boarding & Training Establishments** | 500 to another off-site dwelling and 200 to a property boundary | | | | N/A |

***Source:*** *The above table is adapted/modified from the NSW Department of Primary Industries publication entitled 'Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast' (www.dpi.nsw.gov.au) and provides guidelines for buffers for some* ***sensitive land uses*** *(top row) from some relevant primary & extractive industries, environmentally sensitive areas, and other land uses (left column) in metres (m).*

## F2.7 Buffers & Landscaping

Any buffers or setbacks should incorporate or be capable of incorporating sufficient landscaping / tree plantings (or other mechanism where appropriate) to minimise or mitigate any impacts from adjacent land uses without increasing the bushfire threat to any existing or proposed buildings.

***Note:*** *Blayney Shire Council acknowledges that one method for reducing land use conflict is to incorporate significant landscaping and trees into buffer areas to create a barrier to views, dust, and some other impacts (not including noise). The issues with landscaping include:*

a) *It is difficult to specify landscaping that will actually provide a buffer for all impacts.*

b) *Landscaping requires ongoing irrigation and maintenance to achieve the desired outcomes and Council is not well-placed to provide ongoing enforcement.*

c) *Additional landscaping, in certain circumstances can increase bushfire risk to existing or proposed buildings.*

d) *Changes in ownership or land use may require different landscaping approaches.*

*Where required, landscape plantings will form part of the conditions of consent by Council. However, by providing the required buffers/setbacks it allows for the individual owners to utilise landscaping to minimise or mitigate impacts.*

## F2.8 Agriculture & Right to Farm

Any **sensitive land uses**/development (or subdivision that supports those **sensitive land uses**) that has a boundary with rural zoned land, should seek to incorporate buffers or setbacks to that rural land to enable the rural land to be used for standard agricultural practices to the fullest agricultural potential of that land (taking into account the recommended buffers set out in the clause entitled '**Buffers to Sensitive Land Uses'** above).

***Note:*** *Blayney Shire Council recognises the importance of agriculture and primary production to the economy of the Shire and its rural community. For this reason, Council supports the 'right to farm' (in accordance with NSW Government Policy at www.dpi.nsw.gov.au) on rural land including existing agricultural practices or potential future increases in intensity of agricultural practices. This means that agricultural activities MAY have priority over* ***sensitive land uses*** *as set out in that policy.*

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# F3 Stormwater & Drainage

## F3.1 Application of this Section

This Section applies to:

a) All proposed development in Blayney LGA where **Clause 6.2 Stormwater Management in BLEP2012** applies (residential, business and industrial zones); and

b) Any other areas where the proposed development would significantly modify hardstand, roof catchment or drainage areas and Council would require a **Soil & Water Management Plan**.

## F3.2 Objectives of this Section

To ensure that stormwater and drainage systems:

a) Address the objective of **Clause 6.2 Stormwater Management** of **BLEP2012**.

b) Will not significantly alter and/or worsen pre-development stormwater patterns and flow regimes.

c) Will convey stormwater to receiving waters with minimal damage, danger and nuisance.

d) Maintain the water quality of receiving waters.

e) Stabilise landform and control erosion.

f) Maximise the potential for water infiltration and minimise overland flows.

g) Protect proposed or likely building areas from erosion and stormwater damage; and

h) Consider water retention/detention and re-use (where relevant).

## F3.3 Stormwater Management

1) If a **Soil and Water Management Plan** is required, then it must demonstrate / address the matters set out below (where relevant).

2) For all areas (both urban and rural) development must ensure stormwater management:

    a) Is in accordance with Council's Guidelines for Engineering Works (as amended).

    b) Does not result in any concentration of flows to adjoining properties.

    c) Is designed to optimise the interception, retention and removal of water-borne pollutants and sediment prior to their discharge to receiving waters.

3) For urban areas (Zone R1, RU5, E1, E3, E4 and Zone R5 Large Lot Residential) attached to towns/villages where lots < 1 ha in area) development must ensure stormwater management:

a) Is designed to flow to Council's stormwater system, inter-allotment drainage easement, or other legal point of discharge.
b) Where there is likely to be significant site coverage by buildings and hardstand areas, that the post-development run-off from the development site:
    i) will not exceed the run-off from the site during its pre-developed states.
    ii) does not significantly alter pre-development stormwater patterns and flow regimes or cause unacceptable environmental damage in existing watercourses or receiving waters.
c) For development of larger sites where the downstream hydraulic capacity of one or more components in a drainage system is inadequate for the design flow and/or where economically feasible, Council may require the design to incorporate some or all of the following:
    i) Onsite stormwater retention and/or detention devices.
    ii) Water quality treatment devices; and or
    iii) Water re-use, to manage stormwater on the site and improve water quality outcomes when discharging to the natural environment in accordance with recognised *Water Sensitive Urban Design* principles.

***Note:*** *Inter-allotment drainage easements will be required for all allotments with a cross-fall where any significant portion of the allotment drains through an adjoining allotment, or where the allotment drains away from the street. Permission from any adjoining lots for the proposed easement will be required.*

***Note:*** *Council may condition the requirement to upgrade part or all of the site frontage to the street (at the developer's cost) to include kerb and gutter (appropriate to the location).*

PART F

# F4 Flooding

## F4.1 Application of this Section

This Section shall apply to all land within the Blayney Local Government Area (LGA) to which **Clause 5.21 Flood planning** of *Blayney Local Environmental Plan 2012* ('**BLEP2012**') applies.

> ***Note:*** *If your land may be affected by flood related controls we highly recommend that you seek advice from a Planning or Hydraulic (Flood) Consultant and/or a Council Officer as it is a complex issue.*
>
> *Council offers Pre-Lodgement Meetings to provide advice before you spend significant money on preparing detailed development application(s) or consultant reports.*
>
> *Council may also undertake additional local flood studies to improve the understanding of flood behaviour across the Shire. Where new Flood Studies or Floodplain Risk Management Plans are adopted by Council, or where draft studies provide the best available flood information, this DCP shall be taken to apply that information in the assessment of development applications and will be updated accordingly to incorporate any adopted recommendations or flood planning controls*.
>
> **NB: At the time of writing, a Local Flood study and update of the riverine flood model is in progress for Blayney township, which will inform future updates to the Blayney Floodplain Risk Management Study & Plan and this DCP once adopted by Council.*

## F4.2 Objectives

The objectives of this plan are:

a) To provide detailed flood related development controls for the assessment of applications on land affected by floods in accordance with **Clause 5.21 – Flood Planning** in **BLEP2012**, the adopted *Floodplain Risk Management Study & Plan* ('FRMS&P') (as amended) and any relevant NSW Government Flood Policy;

b) To promote awareness of potential flood risks associated with the use and development of land (including mapping of flood risk) and inform the community of Council's flood policy;

c) To manage flood risk through appropriate development controls for development at or below the relevant **Flood Planning Level (FPL)**;

d) To avoid detrimentally increasing the potential flood affectation on other development or adjacent properties by modifying flood characteristics;

e) To avoid unduly sterilising land where flood compatible uses are appropriate and an appropriate floor level to minimise flood impacts can be achieved;

f) To ensure construction methods and materials on flood liable land are compatible with flooding and flood conveyance;

g) To ensure new development does not impose significant additional burdens on, or risk to, SES or other emergency personnel during flood emergencies.

## F4.3 Background

### F4.3.1 Why do we need Controls for Flooding?

Flooding is one of a number of natural hazards present in Blayney Shire that affects both safety and property/infrastructure and therefore needs to be taken into account when assessing new development.

The potential for significant flood risk to human life and property damage as well as strains on emergency resources during a flood event suggests that, where possible, development of flood prone land should be avoided, minimised, or carefully managed. Whilst it is possible to implement flood risk mitigation works to protect existing development this is often costly and has significant environment impacts. Some parts of the Shire are in the upper catchments and have little warning when flood events occur.

Many in the community may have experienced historic flooding events. However, historic events may not necessarily indicate the level or extent of future flood events that may be larger than historical floods. Factors that affect flooding may also change over time, so it is important that flood mapping and/or understanding is updated regularly.

Council is not in a position to fund or undertake a flood study of the entire Local Government Area (LGA) but will regularly seek funding to conduct studies based on risk and need. Often the onus will be on individual land owners to demonstrate that flooding can be addressed in accordance with this Plan.

The controls in this Plan seek to provide additional detail to support the flood planning control(s) in **BLEP2012** and to ensure that there is guidance both for Council and the Community with flexibility (where appropriate) to facilitate appropriate development in the Shire.

### F4.3.2 Blayney Floodplain Risk Management Study & Plan (2016) ('FRMS&P')

In accordance with the NSW Government requirements, Blayney Council and Jacobs (consultants) have prepared a *Floodplain Risk Management Study & Plan* ('FRMS&P') for the Town of Blayney and surrounds (only) (adopted in 2016) that builds on the 2015 Flood Study by Jacobs. An addendum to the FRMS&P was provided by Storm Consulting in 2022. The FRMS&P has defined the **flood planning area** (or area at or below the **flood planning level**). This DCP seeks to implement and respond to the recommendations of that FRMS&P (as amended) for the Town of Blayney but also to ensure consistent controls for flood affected lands throughout the Shire.

### F4.3.3 Relationship to other Planning Policies & Instruments

This Plan is to be read alongside the relevant controls in **BLEP2012**, Council's *Guidelines for Engineering Works*, the *Floodplain Risk Management Study and Floodplain Risk Management Plan* (2016, as amended) as well as other NSW Legislation, State Policies and Guidelines applying to flood liable land including, but not limited to (as amended):

a) *Environmental Planning & Assessment Act 1979* and associated Regulations;

b) NSW Government (2023) *Flood Risk Management Manual* (the 'Manual');

c) NSW Government (2023) *Flood Prone Lands Policy*;

d) NSW Government (2007) *Flood Risk Management Toolkit*;

e) NSW Government (2021) Section 9.1 Ministerial Direction No.4.

### F4.3.4 Exempt & Complying Development

This DCP does not affect the requirements for development of land using the rules under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* ('Code SEPP'). However, the relevant flood mapping may determine which lots are 'flood control lots' (i.e. lots to which flood related development controls apply for certain uses) for the purpose of the Code SEPP and may determine the minimum floor level for certain development types.

Complying development cannot occur in a floodway, flood storage area, flow path or high hazard or high-risk area. See Clause 3.5 (Housing Code), Clause 3A.38A (Rural Housing Code), Clause 5A.6K (Industrial and Business Buildings Code) (, or any other relevant section of the SEPP (as amended).

## F4.4 Key Definitions

Flooding is a complex issue and flood controls include a lot of specific words and definitions that affect when and how flood controls operate. Where specific flood definitions are used in this Plan we have tried to highlight them in **BOLD**. When you see one of these **BOLD** words we suggest you read the **Key Definition Section** for that term. If you do not understand the flood definitions or controls please ask a Council officer for assistance.

Only key definitions used in this DCP are set out below. For an expanded list of definitions refer to the Glossary within the NSW Government's *Floodplain Development Manual* and/or Council's adopted *Floodplain Risk Management Study & Plan* (on Council's website).

**Flood – General Terms**

- ***Catchment*** *is the land area draining through the main stream, as well as tributary systems, to a particular site. It always relates to an area above a specific location.*
- ***Flood*** *is the term for a relatively high stream flow which overtops the natural or artificial banks in any part of a stream, river, estuary, lake or dam, and/or* ***local overland flooding*** *associated with major drainage before entering a watercourse, and/or coastal*

*inundation resulting from super-elevated sea levels and/or waves overtopping coastline defences excluding tsunami.*

- ***Flood liable land** is synonymous with **flood prone land** and **floodplain** i.e. area of land which is subject to inundation by floods up to and including the **probable maximum flood ('PMF')** event. Note that the term **flood liable land** covers the whole floodplain, not just that part below the **Flood Planning Level**.*
- ***Probable Maximum Flood (PMF)** means the largest flood that could conceivably occur at a particular location; usually estimated from probable maximum precipitation, where applicable, snow melt, coupled with the worst flood producing catchment conditions. The **PMF** defines the extent of **flood prone land** that is the floodplain. Generally, it is not physically or economically possible to provide complete protection against this event. The average recurrence internal (ARI) for the PMF for Blayney is approximately 1 in 10,000,000 years [FRMS&P Appendix C].*

## Types of Flooding

Different types of flooding may affect your land. Most people recognise mainstream flooding but land can also be affected by overland flooding along natural drainage channels.

- ***Mainstream flooding** is the inundation of normally dry land occurring when water overflows the natural or artificial banks of a stream, river, estuary, lake or dam.*
- ***Local overland flooding** is inundation by local runoff rather than overbank discharge from a stream, river, estuary, lake or dam.*
- ***Overland flow path** is the path floodwaters can follow as they are conveyed towards the main flow channel or if they leave the confines of the main flow channel.*
- ***Major Overland Flowpath:** The FRMS&P defines a number of **Major Overland Flowpaths** (MOF) through the Town of Blayney that convey significant volumes of water to key watercourses.*
- ***Local Drainage** issues are typically caused by direct surface runoff, surcharges and overflows from low points in kerbs, or overflows from the stormwater drainage system. They involve shallow depths with little danger to personal safety. In the FRMS&P a distinction was made between local drainage and **Major Overland Flow** (MOF) and local drainage issues are not included in the Flood Planning Area.*

## Chance of a Flood

- ***Annual Exceedance Probability (AEP)** is the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. For example, a 1% AEP flood has a 1% chance of occurring in any one year.*

**Note:** Sometimes you will see flood documents refer to the **Annual Recurrence Interval ('ARI')** or a 1 in a 100-year flood. This is similar to a 1% AEP flood but AEP is the preferred term. It is important to understand that a 1% AEP flood does **not** mean that only one flood of that level would occur every 100 years. Instead, it is the chance in any

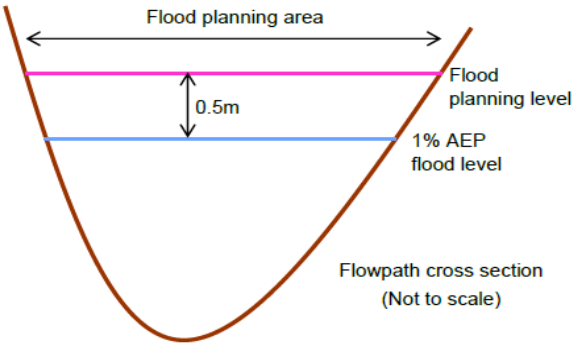
year of a flood of that level occurring. It is also important to note that historical floods may not have reached or exceeded the 1% AEP flood level.

## Flood Levels for Application of Planning Controls

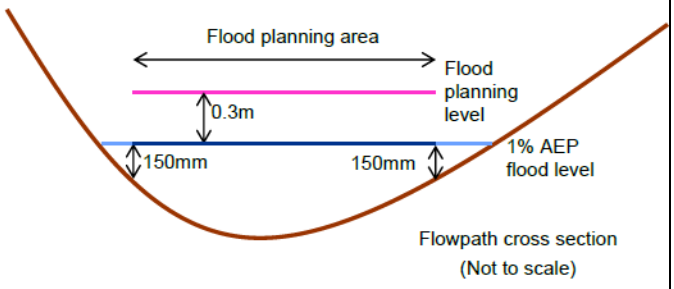
- ***Flood Planning Area (FPA)*** *is the area of land below the* ***Flood Planning Level ('FPL')*** *and thus subject to flood related development controls. The* ***FPA*** *is shown on the* ***Flood Planning Map*** *where Clause 5.21 of* ***BLEP2012*** *must be considered.*
- ***Flood Planning Levels (FPLs)*** *are the combinations of flood levels (derived from significant historical flood events or floods of specific* ***AEP****s) and freeboards selected for floodplain risk management purposes, as determined in management studies and incorporated in management plans.*
- ***Freeboard*** *provides reasonable certainty that the risk exposure selected in deciding on a particular flood chosen as the basis for the* ***FPL*** *is actually provided. It is a factor of safety typically used in relation to the setting of floor levels.* ***Freeboard*** *is included in the* ***FPL****.*
- ***Flood hazard*** *is the potential risk to life and property resulting from flooding. The level of hazard varies across the floodplain due to different flood conditions (such as depth, velocity, etc.).*

In the Town of Blayney, the **Flood Planning Level (FPL)** is the 1% **AEP** plus either 500mm **freeboard** for **mainstream flooding** OR 300mm **freeboard** for **local overland flooding**.

**MAINSTREAM FLOODING**




**OVERLAND FLOODING**




For the remainder of the LGA the **Flood Planning Level (FPL)** is the 1% **AEP** plus 500mm **freeboard**.

The FRMS&P (Section 5.3) defined '**low flood hazard area'** and '**high flood hazard area'** (see Figure.2 below) for the 1% AEP flood event based on peak depth and peak velocity and including other factors such as isolation, effective warning time, flood readiness, etc.

**General Terms**

- ***Australian Height Datum (AHD):*** *A common national surface level datum approximately corresponding to mean sea level.*
- ***Flood compatible materials:*** *Building materials that are resistant to damage when inundated by floodwaters.*
- ***Flood proofing:*** *A combination of measures incorporated in the design, construction and alteration of individual building and structures subject to flooding, to reduce or eliminate flood damages.*
- ***Gross floor area:*** *Is defined in* ***BLEP2012.***
- ***Habitable room / floor area:*** *In a residential building a habitable room is a living or working area such as a lounge room, dining room, rumpus room, kitchen, bedroom or workroom. It does not include bathrooms or garages.*
- ***Reliable access:*** *The ability for people (pedestrians and vehicles) to safely access and evacuate an area defined as a maximum water depth of 300mm during certain flood events (see Matrix in Controls). Road type/construction must also be suitable for all weather 2WD access.*
- ***SES:*** *State Emergency Service of New South Wales.*

## F4.5 Development Categories

In the MATRIX of Development Controls in **Part F4.8.3** below it refers to different 'development categories'. Please ensure you consider which of these apply to your proposal. More than one category may apply. Please discuss with Council if you are unsure.

**Subdivision**

Subdivision includes the creation of new lots, consolidation of existing lots, or boundary adjustments between lots (see definition in Environmental Planning and Assessment Act 1979 (as amended). There are two key categories of subdivision in the matrix below:

a) Subdivision for **'sensitive development'** (see definition below), **residential accommodation** or **tourist and visitor accommodation** – these uses all have a residential component or are sensitive to flooding so it is more important to ensure building envelopes that are not affected by some floods;

b) Subdivision for all other / non-residential uses (e.g. commercial, industrial subdivision) – these uses are more flexible with regards to addressing flooding.

**New Residential Accommodation or Tourist and Visitor Accommodation**

This Clause applies to any development defined in **BLEP2012** as **'residential accommodation'** that includes, but is not limited to dwelling houses, dual occupancies, multi-dwelling housing, boarding houses, seniors housing and residential flat buildings. (See next section for minor additions to / expansion of existing residential uses). Council may (at its discretion) also apply this control to permanent residential buildings for other

quasi – residential types such as **tourist and visitor accommodation** including but not limited to bed and breakfasts or farm stays, hotels or motels, and serviced apartments and holiday lets (see **BLEP2012** for definitions).

**Minor Additions to and Replacement of Existing Residential and Tourist and Visitor Accommodation**

This category allows for minor additions (increase in floor area) to existing residential accommodation (or tourist and visitor accommodation) and replacement of residential accommodation where the existing floor level is below the **Flood Planning Level (FPL)** AND it is impractical or unreasonable to build up the additions to the FPL. Where there is no increase in floor areas and it is only alterations that do not affect flood behaviour then the flood controls do not apply.

**Non-Residential Uses (including Commercial and Industrial Development)**

This category is for non-residential uses. This may include land uses defined in **BLEP2012** as **'commercial premises'** (including business, office and retail premises), and industrial (heavy, general, or light industry or rural industry uses). Some community uses may use this category where they are not defined as sensitive or vulnerable (see below).

**Sewerage Infrastructure**

Sewerage infrastructure is a particular concern on flood prone lands because if the flood damages that infrastructure or an on-site sewage management system releases into flood waters then there is significant potential for contamination of the watercourse and environmental systems, the land affected by flooding, and risk to human health. Please see **Part F2.5 On-Site Effluent Disposal** for the relevant controls.

**Recreation, Outbuildings & Ancillary Development**

This category includes buildings associated with recreational uses or ancillary or outbuildings associated with other uses. These will generally have a low impact on flooding as long as any sewage infrastructure or valuable goods/chemicals can be stored above the **Flood Planning Level (FPL)**. This category may include uses where flood risk to buildings or human life is less likely (e.g. non-habitable buildings associated with agriculture, forestry, extractive industries, recreation areas, plant nurseries, roadside stalls etc.).

**Sensitive Development**

**'Sensitive' development'** includes 'vulnerable residential development', 'critical (emergency) facilities', 'critical utilities / infrastructure' or 'hazardous industries' where flooding has the potential to cause greater disruption, economic loss or injury/loss of life and these facilities need to be able to operate during all flood events. 'Sensitive' development includes a range of uses where:

a) There is a need to continue to operate during and after flooding (e.g. emergency services and critical utility infrastructure);

b) Users of that development may not be able to easily or independently move away from rising flood waters and this could place additional pressures on emergency services during a flood (e.g. aged care facilities / schools);

c) The development stores goods/chemicals that could cause environmental damage if flooded; and

d) The cost of flood damage is unacceptable to the community (e.g. schools / major infrastructure).

Council reserves the discretion to consider the merits of each application though, for example, this includes but is not limited to:

Vulnerable Residential Development & Critical Facilities

- Public buildings and places of assembly
- Aged Care, Hospices, Seniors Living, Group Homes, Housing for Aged or Disabled Persons
- Educational Establishments, Schools & Child Care Facilities
- Emergency Services facilities including Hospitals & medical / health facilities

Some larger forms of **tourist and visitor accommodation** (e.g. caravan parks or hotels/motels) may be **'sensitive development'** where larger numbers of users will have little knowledge of flood issues or responses and may require assistance to safely evacuate. For smaller developments such as B&Bs, farm stays and holiday-lets the residential controls are sufficient.

Critical Utilities & Hazardous Industries

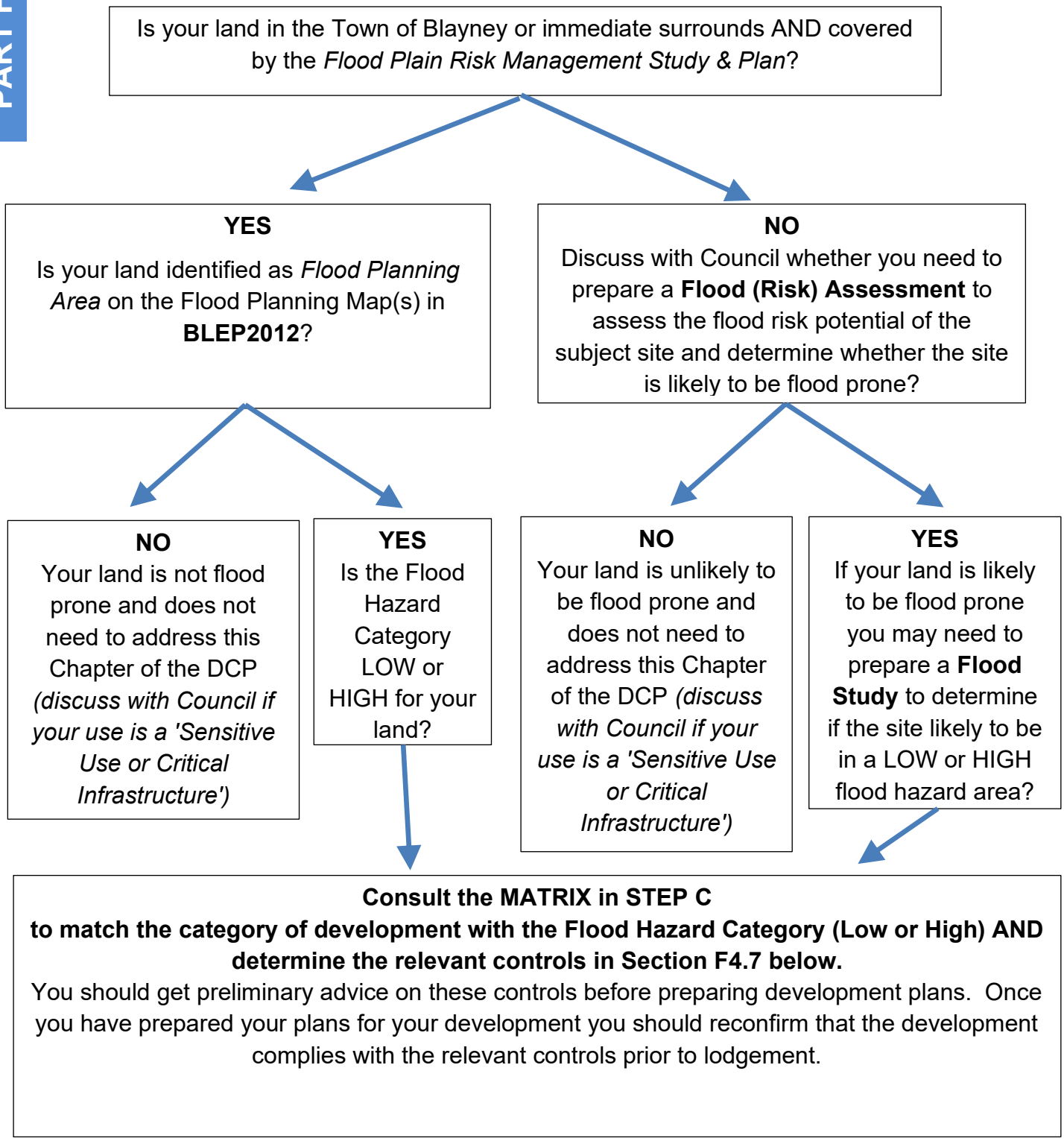
- Critical Utilities – Electricity substations, telecommunication facilities, sewerage treatment plants, water treatment plants
- Hazardous industry; Hazardous storage establishments or industries where flooding may result in significant contamination of watercourses/land during flooding.

## F4.6 How to Use This Section

We have provided flow chart(s) below to assist in understanding when and how to use this Section. There are several key questions that need to be answered.

***Note:*** *If your land is affected by flood related controls we highly recommend that you seek advice from a Planning or Hydraulic (Flood) Consultant and/or a Council Officer. Council offers Pre-Lodgement Meetings to provide advice before you spend significant money on preparing detailed development application(s) or consultant reports.*

PART F


Is your land in the Town of Blayney or immediate surrounds AND covered by the *Flood Plain Risk Management Study & Plan*?
YES
Is your land identified as *Flood Planning Area* on the Flood Planning Map(s) in **BLEP2012**?
NO
Discuss with Council whether you need to prepare a **Flood (Risk) Assessment** to assess the flood risk potential of the subject site and determine whether the site is likely to be flood prone?
NO
Your land is not flood prone and does not need to address this Chapter of the DCP *(discuss with Council if your use is a 'Sensitive Use or Critical Infrastructure')*
YES
Is the Flood Hazard Category LOW or HIGH for your land?
NO
Your land is unlikely to be flood prone and does not need to address this Chapter of the DCP *(discuss with Council if your use is a 'Sensitive Use or Critical Infrastructure')*
YES
If your land is likely to be flood prone you may need to prepare a **Flood Study** to determine if the site likely to be in a LOW or HIGH flood hazard area?
**Consult the MATRIX in STEP C**
**to match the category of development with the Flood Hazard Category (Low or High) AND determine the relevant controls in Section F4.7 below.**
You should get preliminary advice on these controls before preparing development plans. Once you have prepared your plans for your development you should reconfirm that the development complies with the relevant controls prior to lodgement.

PART F

## F4.7 Does this Plan Apply to Your Site?

### F4.7.1 Where is your Site?

Before seeking to apply the controls in this Plan to your Site it is necessary to ask the following questions:

**a) WHERE IS YOUR SITE? WHAT IS ITS ADDRESS / TITLE (Lot & Deposited Plan Number)?**

*You can get these details from your rates notice from Council or from the NSW Planning Portal at* www.planningportal.nsw.gov.au.

**b) IS IT LIKELY TO BE AFFECTED BY FLOODING?**

| If your site is in the Town of Blayney or immediate surrounds then | If your site is outside the Town of Blayney and immediate surrounds then |
|---|---|
| GO TO SECTION F4.6 to determine if your site is identified as being at or below the flood planning level. | GO TO SECTION F4.6 to determine if your site is likely to be affected by flooding (at or below the flood planning level) and/or speak to Council. |

### F4.7.2 Town of Blayney & Immediate Surrounds

**Identifying Land below the Flood Planning Level & Flood Hazard Category**

If your site is in the Town of Blayney or immediate surrounds then you need to determine if the relevant site is within the **Flood Planning Area ('FPA')** on the **Flood Planning Map** in **BLEP2012** as follows:

a) Look at the **Flood Planning Map** and see if your land is within the **Flood Planning Area**. This map is at a high scale so it may be difficult to tell if your land is close to the **Flood Planning Area** boundary; OR

b) Go to the **NSW Planning Portal** at www.planningportal.nsw.gov.au.

- Click on 'Find a Property' on the web page and enter the street address of the relevant site;
- Select the site from the drop-down menu and it should bring up the 'Property Details';
- Scroll down the 'Property Details' Section until you see the 'Planning Layers' heading;
- See if there is a 'Flood Planning' heading under the Planning Layers. If there is no heading then your property may not be within the Flood Planning Area but it is best to check with Council if you have any doubts);

- Click on the circle next to 'Flood Planning' (if available) and the map above will change to show where the Flood Planning Area is in relation to your site. If 'Flood Planning' is not listed then your site is not affected by the Flood Planning Map; OR

c) **Contact Council** if the above methods do not work for you or you have any doubts or questions. Verbal information from Council cannot be relied upon. The safest way to confirm if your land is within the Flood Planning Area is to seek a **Section 10.7 Certificate** which will state if a site is affected by 'flood related development controls'.

If your land is NOT identified on the **Flood Planning Map** as being within a **Flood Planning Area** and you have confirmed with Council that there is unlikely to be a flood issue then you should note this in your application but do NOT need to address anything further).

Where your land IS identified on the **Flood Planning Map** as being within a **Flood Planning Area** then determine if ALL or only PART of the lot is affected and whether it would affect any part of the land where the proposed development will be located (or it can be moved to avoid the flood area).

**What is the Flood Hazard Category in this Plan?**

The **Flood Hazard Category** is important because different development activities can occur in different **flood hazard categories**. Please see the Key Definition Section for details. However, it is important to understand if your development is in a **HIGH HAZARD CATEGORY** or a **LOW HAZARD CATEGORY**. There are several ways for you to determine the flood hazard category for your site:

a) If you are unable to clearly identify your land on and the corresponding **flood hazard** category then please go to Council's offices and ask to see the maps on Council's computer system for your particular lot (free of charge) OR

b) You may need to prepare a **Flood (Risk) Assessment** or **Flood Study** by a suitably qualified hydraulic (flood) consultant who can determine the flood hazard category (if there is any doubt or an applicant wishes to dispute the classification by Council).

### F4.7.3 Other Parts of The Shire (No Flood Planning Map)

If your land is outside the area shown on the Flood Planning Map(s) then Council has NOT prepared a detailed **Flood Study** or mapping for those areas to define the **Flood Planning Level (FPL)** or the **Flood Hazard Category.** Therefore, the applicant and Council must undertake a 'reasonable' level of assessment of the risk of flooding on the Site (See **Part F4.10 Application Requirements** for more details).

The risk of flooding must be considered wherever the land / development is in proximity to an existing watercourse, drainage corridor, or known overland flow path for water in heavy rainfall events or is known or suspected to be affected by flooding. It is the applicant's

responsibility to determine if the site is at or below the **Flood Planning Level (FPL)** and is subject to the controls in **BLEP2012** and this Plan.

You should seek advice from Council PRIOR TO LODGING THE DEVELOPMENT APPLICATION and they will determine what method must be used to determine what land (or part of land where development is proposed) is at or below the **Flood Planning Level (FPL)** or the **Probable Maximum Flood (PMF)** using the most current information available to Council and may be derived and interpreted from any of or a combination of the following:

PRIOR TO LODGING THE DEVELOPMENT APPLICATION, the applicant (or their consultant) should provide to Council the following (See Part F4.10 Application Requirements for more details):

a) A Survey Plan from a Registered Surveyor;

b) Development Plans showing details of the proposed development based on the Survey Plan;

**c) A** Flood (Risk) Assessment**.**

COUNCIL will conduct a brief assessment of:

a) Historic flood inundation records held by Council for the site and/or surrounding area as the highest known flood (though this often does not accurately represent the 1% Annual Exceedance Probability (AEP) or Flood Planning Level and is subjective only);

b) Any (known) existing Flood Study or modelling undertaken for a site or for sites in the surrounding area that may provide an indication of flood levels in the area;

c) Any indicative Flood potential shown on maps in the *Blayney Settlement Strategy* (or other relevant land use strategy adopted by Council);

d) Any State Emergency Services or other relevant agency/authority mapping that may be available not just for flooding but also for dam break contingencies (e.g. Carcoar Dam).

IF COUNCIL has any reasonable reason to believe that the lot (or the part of the lot where development is proposed or would be needed for access) may be:

a) affected by mainstream flooding or localised overland flows, and/or

**b) at or below the** Flood Planning Level (FPL)**,**

then it may (at its discretion based on the risk of the proposal) require further assessment of flood potential including, but not limited to (See Part F4.10 Application Requirements for more details):

**A site-specific** Flood (Risk) Assessment**; or**

A site-specific Flood Study.

## F4.8 Development Controls

### F4.8.1 Blayney Local Environmental Plan 2012: Clause 5.21 – Flood Planning

If your land/lot is identified as being within the **Flood Planning Area** on the **Flood Planning Map(s)** in **BLEP2012** (Town of Blayney ONLY in 2017) OR is other land that is **flood liable land** then you will need to address **Clause 5.21 – Flood Planning** in **BLEP2012** (as amended). This Plan provides additional guidelines to address that clause. If the requirements in **BLEP2012** are inconsistent with this DCP then **BLEP2012** prevails to the extent of any inconsistency.

### F4.8.2 Change of Use

A change of use occurs when an approved use of a building is changed from one use to another use. Some flexibility is provided for commercial/industrial changes of use to facilitate re-use of existing buildings.

1) If a change of use is from a commercial/industrial/ other use to a residential use (or use with a residential component) then the requirements for residential accommodation in the matrix below apply.
2) If a change of use is from a non-residential use to another non-residential use then:
    a) If there is no modification to the building footprint required as part of the change of use, existing floor levels need not be changed;
    b) Otherwise, the requirements for non-residential uses (including alterations and additions) apply.

### F4.8.3 MATRIX – Summary of Key Development Controls

This section applies to any development of land (listed in the matrix) that is at or below the **Flood Planning Level**.

- **Development Categories** (left column) are defined at the start of this Section.
- **Flood hazard categories** (low or high) are clearly defined in and around Blayney. In other parts of the Shire the **Flood (Risk) Assessment** and/or **Flood Study** will determine the hazard level.
- The controls (top row) are set out in detail below and align with the symbol in the table with the detailed provisions following the Matrix.

PART F

| 'DEVELOPMENT CATEGORY' (LEFT COLUMN) V'S RELEVANT CONTROL (TOP ROW) | HAZARD | FLOOD BEHAVIOUR | BUILDING ENVELOPE | LEVEL (FLOOR OR OTHER) | FLOOR AREA | FENCING | CONSTRUCTION REQUIREMENTS |
|---|---|---|---|---|---|---|---|
| NEW BUILDINGS OR ADDITIONS (Exp. Floor) FOR SENSITIVE DEVELOPMENT | LOW HAZARD | FB1 | N/A | L1 | F1 | LF1 | B1/ B2 |
| SUBDIVISION – 'SENSITIVE DEVELOPMENT' / RESIDENTIAL & TOURIST/VISITOR ACCOMMODATION | | FB1 | X1 | N/A | N/A | LF1 | N/A |
| NEW RESIDENTIAL & TOURIST/VISITOR ACCOMMODATION & ADDITIONS (Expanded Floor) | | FB1 | N/A | L2/L3 | F2 | LF1 | B2 |
| SUBDIVISION – NON-RESIDENTIAL (E.G. COMMERCIAL / INDUSTRIAL) | | FB1 | X2 | N/A | N/A | LF1 | N/A |
| NEW NON-RESIDENTIAL OR ADDITIONS (Exp. Floor) (COMMERCIAL, INDUSTRIAL & OTHER) | | FB1 | N/A | L2/L4 | F3 | LF1 | B2 |
| RECREATIONAL, OUTBUILDINGS & FARM BUILDINGS | | FB1 | N/A | L2 | F4 | LF1 | B2 |
| ADDITIONS/ RE-USE OF EXISTING NON-RESIDENTIAL (COMMERCIAL, INDUSTRIAL & OTHER) | HIGH HAZARD | FB1 | N/A | L2/L4 | F3 | LF1 | B2 |
| RECREATION, OUTBUILDINGS & FARM BUILDINGS | | FB1 | N/A | L2/L4 | F4 | LF1 | B2 |
| ALL OTHER | | X | X | X | X | X | X |

**X Not permissible** **N/A Not applicable**

### F4.8.4 Flood Behaviour

FB1. All buildings, earthworks or retaining walls below the **Flood Planning Level (FPL)** should facilitate the flow of water through the site and/or not substantial modify flood behaviour or exacerbate flood impacts on adjacent properties compared to existing circumstances.

> **Note:** Any works within 40m of a watercourse may be integrated development and require additional approvals. Council will not generally be supportive of works within 40m of a watercourse that could modify flood behaviour (e.g. fill and/or retaining walls).

### F4.8.5 Subdivision / Building Envelope

X1. Subdivision for the purpose of new residential or tourist and visitor accommodation or 'sensitive development' must demonstrate that every lot created or resulting from the subdivision is capable of providing a suitable building envelope (for dwellings a minimum of 200m$^2$) that is above the **Flood Planning Level (FPL)** with **reliable access** to each lot.

X2. Subdivision must demonstrate how the proposed building envelope(s) have taken into account the **Flood Planning Level (FPL)** and sought to avoid, minimise or mitigate building envelopes below the **FPL**.

> **Note:** Council may require that the nominated dwelling envelope (and possibly on-site effluent disposal area – where relevant) is registered on the title of the property to limit any future dwelling approval to that defined area/ floor level. See **Part F – Subdivision** for more details.

### F4.8.6 Minimum Level(s)

L1. ***['Sensitive Development']*** Building(s) should have a level (floor and/or critical infrastructure) at or above the **Probable Maximum Flood (PMF)**. If this cannot be achieved the applicant must demonstrate that:

a) The level is at or above the **Flood Planning Level (FPL)** (or at a level determined by Council);

b) There are no suitable alternative sites for the facility / utility above the PMF and there are good reasons for siting the facility / infrastructure at this location other than land ownership/price;

c) Efforts have been made to ensure the facility / infrastructure has been designed to be capable of operating during **PMF** events and there is **reliable access**.

L2. ***[Habitable Rooms]*** Proposed floor levels of all habitable rooms (or rooms with connection to sewer infrastructure) must be equal or greater than the **FPL** (i.e. they must be above the **1% Annual Exceedance Probability (AEP)** plus 300/500mm **freeboard** as shown on the **Flood Planning Map**).

L3. ***[Residential/Tourist/Visitor Accommodation Alterations & Additions]*** Where an existing building is at or below the **FPL**, the floor level(s) of any alterations or additions of any expanded floor area must be:

a) Equal or greater than the **1% AEP**; and

b) No less than the level of the existing building; and

c) Higher than the surrounding ground level to allow for drainage.

L4. *[Non-Residential]* Proposed floor levels should be:

a) At or above the 1% AEP Level (excludes freeboard); or

b) The applicant must demonstrate that strict adherence to the 1% AEP Level is unreasonable and/or impractical (e.g. there is a significant impact on the streetscape, accessibility, or operations of the facility) and the other relevant controls / objectives are met.

Council may require:

a) A **Flood Evacuation Plan** (prior to occupation) that is made accessible to and part of the education of all employees/staff and regular contractors;

b) Flood warning signs/depth indicators for external areas that may be inundated above 500mm and actively used (such as open car parking or storage areas).

### F4.8.7 Floor Area

F1. ***[Sensitive Development]*** When an existing building is at or below the **Flood Planning Level (FPL)**, the maximum increase in floor area must not exceed 20% of **gross floor area**.

F2. ***[Accommodation]*** When an existing building is at or below the **Flood Planning Level (FPL)**, the maximum increase in floor area must not exceed 40m$^2$ or 20% of habitable floor area, whichever is lesser.

> **Note:** This clause can only be applied once every 10 years for each individual allotment and/or building to ensure cumulative impacts are avoided/minimised.

F3. ***[Non-Residential]*** There must be suitable area(s) available for the permanent or temporary storage of hazardous materials and valuable goods above the **FPL** and this area must be either a minimum of 20% of the **gross floor area** of the building or as nominated by Council (if the use / activity requires a greater area due to the risks associated with its storage requirements).

F3. ***[Recreation/Outbuildings]*** There must be suitable area(s) available for the permanent or temporary storage of valuable goods and/or chemicals above the **FPL**.

### F4.8.8 Fencing

LF1. Fencing, particularly in high hazard flood areas, has the potential to significantly impact on flood conveyance and behaviour and possibly affect neighbouring or downstream properties.

1) On any land below the **Flood Planning Level (FPL)** any proposed landscaping and/or fencing (and the materials to be used) must be shown on the plans accompanying a development application to allow Council to assess the likely effects of the fencing location and permeability on flood behaviour.

2) On any land below the FPL solid / impermeable fences with less than 50% openings (such as Colorbond, galvanised metal, timber or brush fences) that impede the flow of floodwaters or could redirect it to adjacent properties:

a) Are not desirable in Low Hazard Flood Areas and are prohibited in High Hazard Flood Areas; and

b) The applicant must demonstrate and specify that fencing panels must be capable of removal, panels can either be laid flat or horizontally hinged to swing open up minimum 1m high. Trees, landscaping and other structures are not to impede the ability of a hinged fence to open.

### F4.8.9 Building Components & Methods

B1. The 'sensitive' or 'critical' component of a **'sensitive development'** at or below the **Probable Maximum Flood (PMF)** level should comply with the construction requirements in **Part F4.9 below.**

> **Note:** to ensure that damage suffered by these important buildings is lessened in a more severe flood and inhabitants can move back into their residences faster after flood waters have subsided.

B2. All structures/ building components at or below the **Flood Planning Level (FPL)** must comply with the construction requirements in **Part F4.9 below.**

## CONSTRUCTION REQUIREMENTS

### F4.9 Construction Requirements & Flood Proofing

A suitably qualified consultant unless it is a dwelling house and it meets the 'deemed to satisfy' requirements below) must certify that:

1) The proposed structure can withstand the force of floodwater, debris and buoyancy (for calculation of debris forces assume a solid object of mass 250kg travelling at a velocity of 2.0 metres/second).

1) All building or construction uses **flood compatible materials** as per the table below or a suitable alternative is demonstrated to achieve a similar outcome.

**TABLE OF CONSTRUCTION THAT IS 'DEEMED TO SATISFY' REQUIREMENTS**

This table sets out some recommended flood compatible building materials and construction methods. Use of these materials/methods is deemed to satisfy this control. If alternate materials/methods are proposed then a suitably qualified consultant must verify that they would be flood compatible as per the NSW Government policy.

***Note:*** *The use of these materials or methods does not guarantee compliance with the relevant provision of the Building Code of Australia and this must be separately confirmed.*

| FLOOD COMPATIBLE MATERIALS |
|---|

| | |
|---|---|
| **Flooring & Sub-Floor Structure** | Pier and beam construction or suspended reinforced concrete slab is preferred where it can allow floodwaters to pass beneath the floor.<br>Alternatively, concrete slab-on-ground monolith construction is permitted but clay filling is not permitted beneath this where this could be inundated. |
| **Insulation** | Foam or closed cell types. |
| **Nails, Bolts, Hinges & Fittings** | Galvanised<br>Removable pin hinges |
| **UTILITIES, EQUIPMENT & STORAGE** | |
| **Electrical Main Power Supply** | Subject to the approval of the relevant power authority, incoming electricity mains, service equipment and meters shall be located above the **Flood Planning Level**. Means shall be available to easily disconnect the building from the main power supply or all connections are to be automatically isolated in the event of flood waters having the potential to gain access to exposed electrical circuits (internal/external of the building). |
| **Electrical & Wiring** | All wiring, power outlets, switches, etc., should, to the maximum extent possible, be located above the **Flood Planning Level**. All electrical wiring installed at or below the **FPL** should be suitable for continuous submergence in water and should contain no fibrous components. Only submersible-type splices should be used at or below the **Flood Planning Level**. All conduits located below the relevant flood level should be so installed that they will be self-draining if subjected to flooding |
| **Equipment** | All equipment installed below or partially below the **Flood Planning Level** should be capable of disconnection by a single plug and socket assembly. Should any electrical device and/or part of the wiring be flooded it should be thoroughly cleaned or replaced and checked by an approved electrical contractor before reconnection. |
| **Heating Equipment & Fuel Storage** | Heating and air-conditioning systems should be installed above the **Flood Planning Level**. If located below the **FPL**, heating systems using gas or oil as a fuel should have a manually operated valve located in the fuel supply line to enable fuel cut-off.<br>Heating equipment and fuel storage tanks should be mounted on and securely anchored to a foundation pad of sufficient mass to overcome buoyancy and prevent movement that could damage the fuel supply line. All storage tanks should be vented to an elevation of 500 millimetres above the **Flood Planning Level**. |

| | |
|---|---|
| | All ductwork located below the **FPL** should be provided with openings for drainage and cleaning or self-draining on a suitable grade. Where duct work must pass through a water-tight wall or floor below the relevant FPL a closure assembly operated from above the **FPL** should protect the duct-work / room. |

### F4.10 Application Requirements

In addition to the minimum information required when submitting a Development Application (DA), the following additional information **may** be requested by Council if your land is (or deemed to potentially be) at or below the **Flood Planning Level (FPL)**, particularly if your land is outside the Town of Blayney or adopted Flood Planning Map(s) and further studies are required to assess the **Flood Planning Level (FPL)** and/or **Flood Hazard** of your land/development site or these levels are unclear or disputed.

Please confirm all lodgement requirements with Council as early as possible in the preparation of your development application or at a pre-lodgement meeting **PRIOR TO FINALISING YOUR DEVELOPMENT APPLICATION**. If you make some of the information below available to Council early in the development / design process then Council can provide informed advice for your development.

**1. FLOOD (RISK) ASSESSMENT**

A **Flood (Risk) Assessment** (prepared by a suitably qualified consultant) is intended to provide an overview of the known information about the flood potential of the site / development area and any ways that risk could be avoided or mitigated. It provides a document for Council's initial assessment to determine whether there is satisfactory information to approve the development OR Council's finding that a **Flood Study** is required.

A Flood (Risk) Assessment should address:

a) **Catchment:** The development site's location in the relevant water catchment and the location of all watercourses and/or drainage corridor(s) on or near the Site including the order of watercourse through the site in accordance with NSW Government (Office of Water) classification / topographical maps;

b) **Watercourse(s):** Proximity of the proposed development area or building footprint(s) to nearby watercourses or drainage corridors and the difference(s) in level (existing and proposed) to the top of bank of those watercourses;

c) **Flood Level:** Estimated Flood Levels:

   i. A review of historic flood inundation records held by Council (or others) for the site and/or surrounding area as the highest known flood (though this often does not accurately represent the 1% **Annual Exceedance Probability (AEP)** or **Flood Planning Level (FPL)** and is subjective only); or

ii. A review of any (known) existing **Flood Study** or modelling undertaken for site(s) in the surrounding area that may provide an indication of the 1% **AEP** flood level or **FPL** on or near the Site (speak to Council to see if this information is publicly available); or

iii. An engineering assessment indicating the likely natural cross-sectional flow in the 1% **AEP** flood event along any relevant watercourse and the estimated design flow and velocity of those watercourses during that event;

d) **Subdivision:** For subdivision, plan(s) that confirm realistic proposed building envelopes necessary to develop the land for its intended purpose:

i. For commercial subdivision, it is desirable that all envelopes are above the **FPL** and, if not, the applicant must indicate the likely use of those buildings and any impacts that use could have if the buildings/use were to be flooded (e.g. Whether the lot(s) are likely to involve chemicals or materials that would pose a risk to human health and the environment if they were to be affected by a flood);

ii. For residential or tourist and visitor accommodation subdivision, any proposed dwelling envelopes (minimum 200m$^2$) MUST be at or above the **FPL**;

e) **Floor Level:** For building development, plan(s) that confirm the land use category of development (in accordance with this Plan) including the proposed finished floor level (and existing floor levels where they are to be retained) of habitable and non-habitable structures (shown on Plans, Sections & Elevations where applicable) in relation to the **FPL** (residential) and/or **1% AEP** (non-residential) levels;

f) **Utilities:** Confirms whether the proposed development / lot(s) are serviced with reticulated water and sewer (and will have a liquid trade waste agreement) or require on-site management and the location of any sensitive infrastructure or utilities;

g) **Flood Behaviour:** Assesses the impact of the proposed development on the levels, conveyance and behaviour of floods as part of any likely cumulative development of the site and the surrounding area below the **FPL**. This may involve site-specific modelling;

h) **Alternatives:** Considers alternative sites, modifications to the site, alternative layouts, or methods of construction to avoid or minimise the impact of or on flooding of the development and downstream properties;

i) **Risks:** Addresses any specific risks posed by the development or its users to personal safety of occupants, risks to/from property damage; or potential to contaminate waters/lands including (where relevant) potential mitigation measures (e.g. hazardous goods above flood levels, the preparation of evacuation plans, appropriate signage etc.);

j) **Certification (Floor Levels):** Certifies that the floor level and design of the proposed dwelling / building meets the controls in this Plan and any other relevant NSW flood policies or legislation and that the proposed development will not increase the flood hazard or risk to other properties as a result of the development up to the 1% AEP flood event.

## 2. FLOOD STUDY

Alternatively, Council may (at their discretion) require a **Flood Study** (prepared by a suitably qualified hydraulic engineer).

A **Flood Study** may be required where, for example, there is inadequate knowledge of the flood level or flood hazard category, particularly for larger developments and subdivisions that would substantially increase development intensity of flood prone lands, or those with higher risks due to the occupants or uses of the land.

In addition to meeting the requirements for a Preliminary **Flood (Risk) Assessment** (see above), the **Flood Study** would, need to address any requirements in the *NSW Flood risk management manual* including, but not limited to:

a) Utilise recognised hydraulic modelling software to model the flow of water in the catchment for the Site;

b) Determine the Mannings 'roughness' coefficient for flows based on existing/proposed vegetation;

c) Determine the 1% **AEP** level (and 1% **AEP** plus **freeboard**) for the Site (and possibly the **Probable Maximum Flood**);

d) Determine what impacts, if any the 1% **AEP** flood event would have on any proposed development including ancillary works such as earthworks, fencing, sewerage systems etc.;

e) Demonstrate that there will be no adverse impact on surrounding properties or downstream of the site as a result of the development.

## 3. EFFLUENT (GEO-TECHNICAL) REPORT

A **Geotechnical (Effluent) Report** is required for an on-site effluent management system for any site in accordance with **Part G2.5 On-Site Effluent Disposal**. If the Site is affected by flooding it also needs to address whether:

a) Any part(s) of that system or its connections to the building are at or below the **Flood Planning Level (FPL)** or known historic flood levels on the site;

b) The recommended effluent management system based on the geology/soils or the site and its flood characteristics; and

c) The means of protection and/or containment of the system in the event of inundation to avoid or minimise the chance of polluting waters or land.

## 4. STRUCTURAL PLANS OR CERTIFICATION

**Structural Plans or Certification** (prepared by a qualified structural engineer) where any part of a proposed building or earthworks will be at or below the **Flood Planning Level**

**(FPL)** that addresses the requirements of the *Floodplain Development Manual*, including but not limited to:

a) The construction methods to raise the floor levels above the required floor levels and details of any piers/footings;

b) Any additional fill or retaining walls at or below the **Flood Planning Area (FPA)**;

c) The proposed structure(s) is/are able to safely withstand the force of flowing floodwaters, including debris (assuming a solid object of mass 250kg travelling at a velocity of 2.0m/sec) and buoyancy;

d) The use of **flood compatible materials** below the **Flood Planning Level (FPL)** and their compliance with the structural soundness and construction requirements in this DCP or alternative materials/methods that will achieve a similar outcome (i.e. to minimise the likelihood of damage in a flood event).

## 5. FLOOD EVACUATION PLAN

A **Flood Evacuation Plan** may be required where there are:

a) Sensitive users of a development;

b) Users with limited knowledge of the flood risks of a Site;

c) Large developments or sites with complex access issues where reliable (flood free) access may be compromised; or

d) Where it would place a significant burden on emergency services to assist in evacuating a Site.

A **Flood Evacuation Plan** should demonstrate it has been prepared in consultation with the local State Emergency Services (SES).

PART F

# F5 Bushfire

## F5.1 Application of this Section

This section applies to all land that is mapped as bushfire prone land within Blayney LGA on the **Bushfire Prone Land Map(s)** (as amended or replaced).

*To find out if your land is affected by these clauses, please go to the NSW Planning Portal on the internet at www.planningportal.nsw.gov.au, as described in the Introduction to this Part. Please also visit the Rural Fire Service website (www.rfs.nsw.gov.au) for additional resources.*

*A bushfire prone area is an area of land that can support a bush fire or is likely to be subject to bush fire attack. Bush fire prone areas are identified on a **Bushfire Prone Lands Map**. The map identifies bush fire hazards and associated buffer zones within a local government area.*

*There may also be instances where land is not identified as bushfire prone on the **Bushfire Prone Land Map** but a bushfire risk is still present so development may need to consider appropriate locations, design and construction to manage bushfire risk.*

## F5.2 Objectives of this Section

1) To meet the statutory requirements for bushfire protection in NSW.
2) To prevent the loss of life and property due to bushfire by providing for development compatible with bushfire hazard.
3) To ensure risks associated with bush fire are appropriately and effectively managed while having due regard to development potential, on-site amenity and protection of the environment.
4) To ensure bush fire risk is managed in connection with the preservation of the ecological values of the site and adjoining lands.

## F5.3 Development on Bushfire Prone Land

Where a proposed development is on land identified as bush fire prone on the **Bushfire Prone Land Map**, the design and management of any proposed development on that bushfire prone land must comply with:

1) NSW Rural Fire Service (2019) *Planning for Bush Fire Protection* (as amended or replaced); and
2) *Australian Standard AS3959 – 2009 Construction of Buildings in Bush Fire Prone Areas* (for any Construction Certificate application). A suitably qualified person must provide a schedule of compliance with the applicable construction standards. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the course of construction.

3) Any development application involving the erection of a dwelling house or alterations and additions to an existing dwelling house on bush fire prone land must address the requirements contained in the NSW Rural Fire Service (RFS) publication titled "*Building in Bush Fire Prone Areas Single Dwelling Applicants Kit*" found on the RFS website (www.rfs.nsw.gov.au).

# F6 Land Contamination

## F6.1 Application of this Section

This section applies to all land within the Blayney LGA. This Section directly relates to requirements under the *Contaminated Land Management Act 1997* (& regulations) and *State Environmental Planning Policy (Resilience and Hazards) 2021* ('SEPP Resilience and Hazards') that provides procedures to deal with the assessment of known or potentially contaminated land, the remediation of contaminated land, and development that may contaminate land.

Council has prepared a Contaminated Land Policy (in accordance with the Central West Councils Environment & Waterways Alliance and Contamination Land Policy template) that sets out in detail the legislative and policy requirements for assessing contamination including triggers for a preliminary site investigation and remediation requirements. Appendix A of that Policy contains a list of potentially contaminating land uses that should be considered as part of any preliminary investigation.

## F6.2 Objectives of this Section

1) Enable Council to more adequately identify, record and manage known and potentially contaminated land in accordance with legislative and state policy requirements.
2) Consider the historical uses of sites to understand potential risks from potentially contaminating land uses.
3) Ensure development sites have a suitable soil/water quality for their intended use and that any proposed development of an identified contaminated site will not result in any unacceptable levels of risk to human health or the environment.
4) Remediate contaminated sites to a suitable level for their intended purpose and protection of the natural environment.
5) Comply with Council's *Contaminated Land Policy* and any relevant NSW Government guidelines.
6) Avoid or minimise the risk of future contamination of sites from proposed development. Where any proposed development and its operation involves significant quantities of chemical or petroleum use or storage or harmful materials or waste products (in any form) on the site, the applicant must demonstrate how the proposed development:
   a) Will manage and safely contain any chemicals, materials or wastes on the site and/or during their disposal or transport to/from the site in accordance with the relevant regulations.
   b) Is designed to minimise or mitigate the risk of contamination to land, surface and ground water, or ecological systems both during normal operations and in the event the normal systems fail.

c) Addresses relevant clauses in BLEP2012 including (where relevant), but not limited to:

i. **Clause 6.4 – Groundwater vulnerability**.

ii. **Clause 6.5 – Drinking water catchments**.

iii. **Clause 6.6 – Riparian land and watercourses**.

# F7 Biodiversity Management

## F7.1 Application to this Section

The information and controls contained in Part of the DCP detail and provide clarification relating to the application of biodiversity legislation in NSW and more specifically within the Blayney Shire LGA.

Part F of the DCP applies to land within the Blayney Shire Local Government Area, and specifically to development that requires consent under Part 4 of the Environmental Planning Assessment Act 1979, and which proposes to directly or indirectly impact native vegetation or is in proximity of an area that contains native vegetation.

Part F does not declare any particular vegetation as vegetation to which the State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies under Chapter 2 of that policy.

## F7.2 Introduction

Biodiversity is the variety and variability of all life forms on earth. It encompasses multiple levels of classification, including genes, species, and ecosystems. Due in part to millions of years of geographic isolation, the biodiversity of Australia is unique, and many species of plant and animals are found only in Australia and nowhere else in the world. Despite this rich and unique biodiversity, since European colonisation Australia has experienced the largest documented decline in biodiversity of any continent.

The processes that have driven this decline, such as habitat loss and fragmentation, climate change, the spread of invasive species, and inappropriate fire regimes, continue to accelerate. Under rapidly changing and unprecedented conditions, protecting and managing Blayney Shire's natural areas and unique biodiversity has become crucial. Part F of the DCP aims to detail and clarify the application of NSW biodiversity legislation for the purposes of development assessment. In this regard, the NSW Biodiversity Conservation Act 2016 establishes a framework to avoid, minimise and offset the impacts of local development and land use changes on native biodiversity.

## F7.3 Relationship to other Legislation

### F7.3.1 Blayney Local Environmental Plan 2012

Part F of the DCP supports the aims and provisions of the BLEP2012 that relate to the conservation and management of the natural environment. Clause 6.3 of the LEP, in particular, requires special consideration to be given to developments involving land that is mapped as having terrestrial biodiversity.

Environmental Planning and Assessment Act 1979 (EPA Act)

Part F of the DCP addresses the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act) that relate to the conservation and management of the natural environment. In particular, it addresses the following objects of the EP&A Act:

a) 1.3(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
b) 1.3(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
c) 1.3(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.
d) This section of the DCP also addresses matters that the consent authority will take into account when considering the following "matters for consideration" under the EP&A Act:
e) 4.15(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
f) 4.15(1)(c) the suitability of the site for the development,
g) 4.15(1)(e) the public interest.

### F7.3.2 Relationship to Biodiversity Conservation Act 2016 (BC Act)

Part F of the DCP addresses the purpose of the Biodiversity Conservation Act 2016 (BC Act) relating to the impacts of local development and land use changes on native biodiversity. The overarching purpose of the Act is to apply the principles of ecologically sustainable development. More specifically, the following purposes of the BC Act are relevant:

a) 1.3(a) to conserve biodiversity at bioregional and State scales,
b) 1.3(b) to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and
c) 1.3(c) to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge about biodiversity conservation,
d) 1.3(d) to support biodiversity conservation in the context of a changing climate,
e) 1.3(h) to support conservation and threat abatement action to slow the rate of biodiversity loss and conserve threatened species and ecological communities in nature,
f) 1.3(k) to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity,
g) 1.3(l) to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change, for calculating measures to offset those impacts and for assessing improvements in biodiversity values,
h) 1.3(m) to establish market-based conservation mechanisms through which the biodiversity impacts of development and land use change can be offset at landscape and site scales.

Part 7 of the BC Act, together with the Biodiversity Conservation Regulation 2017 (BC Regulation) and some aspects of the Local Land Services Act 2013 (LLS Act), outline the

framework for assessment and approval of biodiversity impacts associated with certain proposals that require development consent. Subject to the provisions of the BC Act, such developments are ultimately determined under the EP&A Act.

Part 6 of the BC Act introduces the Biodiversity Offsets Scheme (BOS). A development to which the BOS applies requires the preparation and submission of a Biodiversity Development Assessment Report (BDAR) to accompany the application. Where a BDAR is required, it must be prepared by an 'accredited assessor' in accordance with the Biodiversity Assessment Method (BAM) established under the BC Act. Accredited assessors are ecologists accredited by the NSW Department of Planning, Industry and Environment to carry out the BAM and prepare BDARs.

Both the BAM and BC Act are based on a hierarchical framework which requires the proponent to design proposed development such that it avoids and minimises biodiversity impacts before proposing biodiversity offsets. If the avoid and minimise measures proposed are considered acceptable by the consent authority, any resulting biodiversity offsets must be delivered in accordance with the BOS and the proponent cannot commence construction until the offset obligation is met.

Council's main role as the consent authority under Part 7 of the BC Act (amongst other things) is to determine:

a) if measures proposed to avoid and minimise biodiversity impacts are acceptable (BC Act s7.13).
b) if the development will result in a serious or irreversible impact on biodiversity values (BC Act, s7.16).
c) that any residual impacts are offset (or otherwise addressed) in accordance with the BC Act (s7.13).

### F7.3.3 Relationship to 10/50 Vegetation Clearing Code of Practice

The 10/50 Vegetation Clearing Scheme allows people to clear certain vegetation near their homes to improve protection from bush fires.

The 10/50 Code permits landowners in the 10/50 Vegetation Clearing Entitlement Area to clear, on their own land, vegetation that is adjacent to an external wall of a building:

- containing habitable rooms that comprises or is part of residential accommodation or a high-risk facility.
- that comprises or is part of a farm shed.

To determine whether a property is located within a Vegetation Clearing Entitlement Area, reference should be made to the online assessment tool available on the NSW RFS website www.rfs.nsw.gov.au

Vegetation clearing that is carried out in accordance with the 10/50 Code is considered to be authorised clearing under NSW Legislation.

For Development Applications to which Part F of this DCP applies, and for the purposes of determining whether that development exceeds the Biodiversity Offsets Scheme threshold,

the 10/50 clearing entitlement should not and will not be excluded from the calculation of the development footprint.

## F7.4 Biodiversity Pathways

Given the potential operation of both the EP&A Act and the BC Act, there are two main assessment pathways which determine the level of biodiversity assessment and information required to support a development application (see Fig 1).

The assessment pathway depends on whether the proposed development triggers entry into the BOS according to the BC Act (see Tables 1, 2 and 3).

Figure 1 – Biodiversity Assessment Pathways

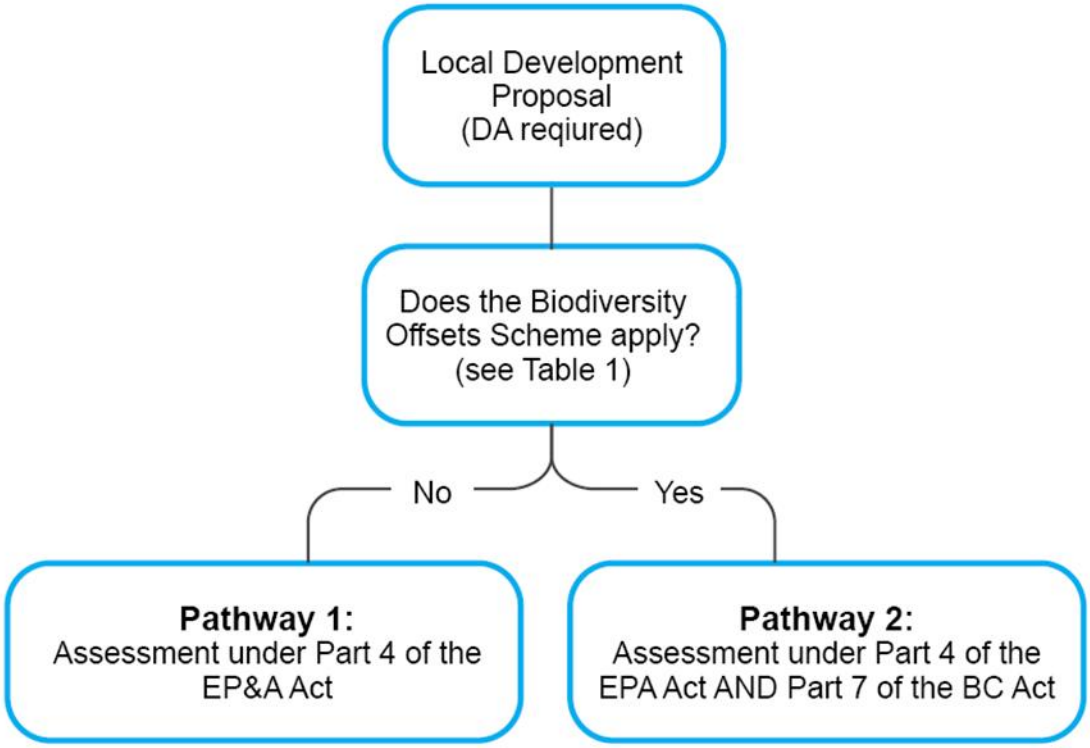


Table 1 - Does the BOS apply to the proposed development?

| | Description of proposed activity | Legislative Reference |
|---|---|---|
| The Biodiversity Offset Scheme **does** apply to: | Proposed clearing of native vegetation (see Table 2) that would exceed the BOS area clearing threshold [1] | BC Act: s7.2(1)(b), s7.4(1)<br>BC Regulation: s7.1(1)(a), s7.2 |
| | Proposed clearing of native vegetation (see Table 2) or other action prescribed by clause 6.1 of the BC Regulation on land identified on the Biodiversity Values Map [1] | BC Act: s7.2(1)(b), s7.4(1)<br>BC Regulation: s7.1(1)(b), s6.1, s7.3 |
| | Proposed development that is likely to significantly affect threatened species or ecological communities according to the test of significance | BC Act: s7.2(1)(a), s7.3 |
| | Proposed development to be carried out within a declared area of outstanding biodiversity value | BC Act: s7.2(1)(c) |
| The Biodiversity Offset Scheme **does not** apply to: | Proposed clearing of native vegetation on Category 1-Exempt land [2] | BC Act: s7.4<br>LLS Act: s60H |
| | Proposed development on biodiversity certified land | BC Act: s7.6 |

[1] See: https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/entry-requirements

[2] See: https://www.lls.nsw.gov.au/help-and-advice/land-management-in-nsw/archive/land-categorisation-and-the-land-management-framework

The area threshold varies depending on the minimum lot size (under **Blayney LEP 2012**) applying to the land. For ease of references purposes, the thresholds are described in Table 2 below.

Table 2 - Clearing thresholds

| **Minimum Lot Size** | **Threshold for clearing, above which the offsets scheme applies** |
|---|---|
| Less than 1 ha | 0.25 ha or more |
| 1 ha to less than 40 ha | 0.5 ha or more |
| 40 ha to less than 1000 ha | 1 ha or more |
| 1000ha or more | 2 ha or more |

Table 3 - What is clearing of native vegetation? (for the purposes of development requiring consent under Part 4 of the EP&A Act only)

| | **Description of proposed activity** | **Legislative Reference** |
|---|---|---|
| "Native vegetation" refers to: | Trees (including any sapling), shrubs, understorey plants, groundcover and plants occurring in a wetland that were established in NSW prior to European colonisation | LLS Act: s60B(1), s60B(2) |
| | Dead or non-native vegetation identified within Category 2-Regulated land [2] | LLS Act: s60B(3) |
| | Marine vegetation including mangroves and seagrasses | LLS Act: s60B(4) |
| "Native vegetation" **does not** include: | Marine vegetation including mangroves and seagrasses | LLS Act: s60B(4) |
| "Clearing" of native vegetation means: | Means any one or more of the following - | LLS Act: s60C |

| | Description of proposed activity | Legislative Reference |
|---|---|---|
| | (a) cutting down, felling, uprooting, thinning or otherwise removing native vegetation,<br>(b) killing, destroying, poisoning, ringbarking or burning native vegetation. | |
| | Includes all clearing proposed in association with a development, including for construction of roads and other infrastructure, bushfire protection requirements, services installation, etc. | LLS Act: s60C |
| | Includes all clearing required or likely to be required for the purposes of a subdivision | BC Regulation s7.1(3) |

[1] See: https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme/entry-requirements

[2] See: https://www.lls.nsw.gov.au/help-and-advice/land-management-in-nsw/archive/land-categorisation-and-the-land-management-framework

## F7.5 Development Applications

### F7.5.1 Statutory Considerations

When determining an application for development consent involving impacts on biodiversity, Council must consider various legislation and policies. These include:

- Environmental impacts on the natural environment under Section 4.15 of the Environmental Planning and Assessment Act 1979.
- Development that is “likely to significantly affect threatened species” as set out in the Biodiversity Conservation Act 2016.
- Potential impacts under other biodiversity legislation such as the NSW Fisheries Management Act 1994 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
- Specific Council LEP Clauses that relate to the protection and management of the natural environment.
- Vegetation clearing or other works within 40m of a watercourse as defined under the Water Management Act 2000.

Proposed development should also be consistent with any relevant strategies, plans or policies prepared and adopted by State, Commonwealth or Local authorities such as:

- Central West and Orana Regional Plan 2036.
- Blayney Local Strategic Planning Statement.

### F7.5.2 Approvals required by other Agencies

In some instances, further approvals may be required by other agencies before development can be undertaken. For example:

- Development in bushfire prone areas (Rural Fire Service).
- Works within 40m of the bed or banks of a waterway (Department of Primary Industries – National Resources Access Regulator).

### F7.5.3 Biodiversity Assessment Objectives

- To ensure that any biodiversity values that may be impacted by the proposed development are identified.
- To ensure that any potential impacts on biodiversity are avoided, minimised, and/or offset.
- To inform the decision-making process in a timely and efficient manner.

### F7.5.4 Development Application requirements

The following information is required to accompany development applications that have the potential to impact biodiversity.

For development that does not exceed the BOS threshold:

a) Information demonstrating the conclusion that the proposal does not exceed the BOS threshold.

b) A response to the threatened species test of significance set out under s7.3(1) of the BC Act.

c) Consideration of Clause 6.6 of the **BLEP2012.**

For development to which the BOS applies according to the triggers described in Table 1:

a) A Biodiversity Development Assessment Report (BDAR) prepared by an assessor who is accredited by DPIE to carry out the Biodiversity Assessment Method (BAM).

# F8 Riparian Land and Waters

## F8.1 Application of this Section

Section G7 applies to development that is proposed on land to which Clause 6.6 of the **BLEP2012** applies, being land that:

a) Is identified as '**Riparian land and waterways'** on the **Riparian Land and Waterways Map** in **BLEP2012,** and

b) All land that is within 40 metres of the top of the bank of each watercourse on land identified as '**Riparian land and waterways'** on the **Riparian Land and Waterways Map** in **BLEP2012**

c) Other developments / land uses that, in Council's opinion, are in proximity to a significant watercourse and may have potential to affect riparian lands or watercourses through development processes that could impact surface or groundwater system.

## F8.2 Objectives of this Section

1) To address the objectives of **Clause 6.6 Riparian land and watercourses** of **BLEP2012**.

2) To ensure that new development does not adversely impact on important environmental functions of riparian lands and water including stability and erosion control, water quality, habitat preservation and flood management.

## F8.3 Development Controls

1) New development is designed and sited to avoid the placement of new buildings, structures and access within 40m of the top of the bank of each watercourse identified as **Riparian land and waterways** on the **Riparian Land and Waterways Map** in **BLEP2012.**

2) The clearing of vegetation is prohibited within 40m of the top of the bank of each watercourse identified as **Riparian land and waterways'** on the **Riparian Land and Waterways Map** in **BLEP2012.**

***Note:*** *vegetation clearing is also subject to the provision of Part F of the DCP.*

2) Where there is significant vegetation that should be retained and enhanced or there are existing ecological links, riparian corridors or drainage corridors on the land or adjoining land that would be enhanced by landscape planting – Council may require the fencing of the riparian corridors to prevent stock access and/or planting of additional vegetation in accordance with recommendations from a suitably qualified consultant.

3) Council may require additional studies, reports or plans (prepared by suitably qualified consultants) that demonstrate the proposed development will not have a significant adverse impact on surface or groundwater systems and may enhance and protect these systems. This may include:

a) Geotechnical and on-site effluent management plans/studies.

b) Hydrological and groundwater analysis.

c) Processes and systems designed to prevent on-site chemicals or waste materials from adverse impacts on surface or ground-water systems (including back-up systems if standard processes fail).

d) Stormwater and drainage plan to direct surface water away from development.

e) Flora and fauna reports or vegetation management plans or landscaping plans.

f) Any other reports required to assess the risk and determine appropriate management strategies.

PART F

# F9 Drinking Water Catchments & Ground Water Vulnerability

## F9.1 Application of this Section

This clause seeks to provide some guidance on when and how Council will require an applicant to address:

a) **Clause 6.4 – Groundwater vulnerability** in **BLEP2012** and applies to land identified as **'Groundwater vulnerable'** on the **Natural Resource – Groundwater Vulnerability Map(s);** and
b) **Clause 6.5 – Drinking water catchments** in **BLEP2012** and applies to land identified as '**Drinking water catchment'** on the **Drinking Water Catchment Map(s)**.

*To find out if your land is affected by these clauses, please go to the NSW Planning Portal on the internet at www.planningportal.nsw.gov.au, as described in the Introduction to this Part.*

## F9.2 Application Requirements

***Note:** It is not intended that low-impact developments (particularly in existing urban areas) are required to prepare a detailed response to these clause(s), except through the provision of an on-site effluent report, erosion & sediment control plan, or other geo-technical report (where relevant). However, larger projects or those with potentially higher impacts to the drinking water supply system must address these clause(s) in greater detail.*

1) When a development is proposed on land identified as:
   a) '**Drinking water catchment'** on the **Drinking Water Catchment Map** in **BLEP2012**; or
   b) **'Groundwater vulnerable'** on the **Natural Resource – Groundwater Vulnerability Map(s)**,

   then the applicant is only required to address the relevant clause in **BLEP2012** in detail for the following land uses / development proposals that are permissible in the relevant zone:

   - Intensive agriculture.
   - Rural industries and other industries with on-site storage or use of hazardous chemicals or significant petro-chemicals.
   - Animal boarding and training establishments and veterinary hospitals.
   - Larger scale tourist accommodation and eco-tourist facilities requiring on-site sewage management.
   - Open cut mining and extractive industries.
   - New cemeteries.
   - Other developments / land uses that, in Council's discretion, would have potential for on-site storage of significant volumes of hazardous liquids or chemicals or the

production of wastes that could contaminate surface or ground water systems that feed into the drinking water supply.

***Note:*** *Operations that store small quantities of fuel, oils or other machinery lubricants for rural or non-commercial use(s) would not be considered as posing a high risk of contamination. However, some higher impact facilities (e.g. service stations, liquid fuel depots and some other depots) will need to be discussed with Council. Compliance with specific regulations (e.g. Protection of the Environment Operations Regulations) for service stations and other liquid fuel depots may provide sufficient protection.*

2) Council may require additional studies, reports or plans (prepared by suitably qualified consultant) that demonstrate the proposed development will not have a significant adverse impact on surface or groundwater systems in the drinking water catchment and this may include:
   a) Geotechnical studies.
   b) Hydrological and groundwater analysis.
   c) Processes and systems designed to prevent on-site chemicals or waste materials from adverse impacts on surface or ground-water systems (including back-up systems if standard processes fail).
   d) Stormwater and drainage plan to direct surface water away from development.
   e) Any other reports required to assess the risk and determine appropriate management strategies.

PART F

# F10 Land & Soils

## F10.1 Application of this Section

*This Section applies wherever site investigations or state or local government mapping indicates there may be geological, soil classification/types or salinity that may affect the proposed development or where the proposed development may impact on the natural environment.*

*Issues that may affect parts of Blayney Shire include but are not limited to: karst (limestone formations and caves); naturally-occurring asbestos; salt-affected lands or salinity; steep lands and lands with (potential for) significant erosion; rocky outcrops; and poorer quality or depth soils that may limit agricultural uses.*

*Any NSW Government publicly accessible mapping and/or known affected areas through site analysis and previous reporting will be used to determine the presence of these issues.*

## F10.2 Objectives of this Section

1) Encourage proposed development to be appropriately sited and/or designed to address site constraints from geological or soil related issues.
2) Ensure that the natural environment is suitably protected from inappropriate development locations and/or construction methods that impact regionally significant geological formations (e.g. karst/limestone).
3) Ensure that the quality of stormwater run-off from development of sites with a geological or soil-related issue does not impact on the natural environment and receiving waters in terms of soil erosion, sedimentation, water and groundwater pollution, and other impacts.
4) To maximise the amount of existing significant vegetation retained on a site during construction and operation of the development to minimise soil erosion and sedimentation of watercourses.

## F10.3 Naturally Occurring Asbestos

*Asbestos is a naturally occurring mineral. This section deals with naturally occurring asbestos (NOA) found in certain geological deposits (as opposed to asbestos utilised in industrial and building products). It is important to acknowledge that this mapping is based both on sites where NOA is known to occur and areas with potential for NOA based on known geology at depths of less than 10m below the natural surface.*

*The potential presence of naturally occurring asbestos ('NOA') has been mapped by the NSW Government across NSW and broken down into broad areas of low, medium or high potential regions. Go to the NSW EPA website at* http://www.epa.nsw.gov.au/clm/natural-asbestos.htm *and click on the link for 'Naturally occurring asbestos in NSW' maps*

*For more information, please see the website for the:*

a) *NSW Environment Protection Authority (EPA) website above, including the following Fact Sheets:*
   - *Factsheet 1 – Recreation in areas of naturally occurring asbestos.*
   - *Factsheet 2 – Residing in areas of naturally occurring asbestos.*
   - *Factsheet 3 – Farming in areas of naturally occurring asbestos.*

b) *Local Government NSW - relating to the Model Asbestos Policy (2015) as amended (https://www.lgnsw.org.au/policy/asbestos-model-policy).*

1) If your land is identified on an NSW Government map as having low, medium, or high potential for naturally-occurring asbestos (NOA) then Council may require that a suitably qualified geo-technical consultant conducts a site visit and sampling to confirm whether there is (likely to be) any NOA on or near the area where development works are proposed. This must review whether the proposed development will result in any substantial earthworks or disturbance of soil or rock in the affected areas which must be shown on a **Site Plan, Earthworks Plan,** or a **Soil and Water Management Plan**.

2) Chapter 8 of the *Work Health and Safety Regulations 2017* (as amended) addresses Asbestos. If NOA is identified, and it is likely to be affected by the proposed works, then Clause 432 of that Regulation requires that a site-specific **Asbestos Management Plan** is prepared in accordance with the regulations and the *Model Asbestos Policy for NSW Councils (2015)* (as amended).

## F10.4 Erosion & Sedimentation

Erosion of land through poor land management and development practices can result in significant sedimentation and water quality issues in watercourses and drainage corridors.

1) Council will assess the relative risk of certain developments causing erosion and sedimentation in accordance with the requirements of the 'Blue Book' (*Managing Urban Stormwater: Soils and Construction*) by Landcom, Fourth Edition (2004) (as amended) including, but not limited to: assessment of site constraints and opportunities; management of soils/earthworks; vegetation retention and enhancement; management of water; sediment and waste control; and site access, stabilisation and maintenance.

2) Council may place conditions of consent on development to comply with the requirements of the 'Blue Book' in accordance with the risk of erosion and/or sediment leaving the site in the following order of risk (low to high):

   a) Implement sediment & erosion control measures during construction.

   b) Lodge with Council (for approval) an **Erosion & Sediment Control Plan**.

   c) Lodge with Council (for approval) a more detailed **Soil & Water Management Plan**.

## F10.5 Other Geological or Soil-Related Issues

In addition to the requirements for Erosion & Sedimentation above, where there is evidence of any geological or soil-related issue(s) that may impact on the suitability of a site for development, its proximity to adjacent development, and/or the method of construction then:

1) The **Statement of Environmental Effects** and any relevant plan(s) must give consideration to the impacts of the geological or soil related issue and document how the proposed development will address those issues and minimise or mitigate any risk;
2) The extent of any impact(s) on the geology or soil should be shown clearly on any **Site (Analysis) Plan**, **Earthworks Plan, Soil and Water Management Plan** and/or **Engineering/Structural Plan(s)**.
3) Council may require a suitably qualified engineer to:
    a) Provide a **Geo-Technical Report** that analyses the geology, soils and possibly the hydrology (water) of the site to determine the risk(s) and how the proposed development should respond; and/or
    b) Provide **Engineering / Structural Plan(s)** to ensure appropriate structure and stability of development.
4) Council may require a **Soil & Water Management Plan** and/or **Erosion & Sediment Control Plan** to manage water, salinity and soils/sediment on-site and demonstrate no impacts on adjacent properties or watercourses / drainage channels in accordance with **Part F9.4 Sediment & Erosion Control**.