



Introduction

This practice direction is issued by the State Planning Commission (“the Commission”) pursuant to sections 42(1) and 125 of the *Planning, Development and Infrastructure Act 2016* (“the Act”).

Practice direction

Part 1 – Preliminary

1 – Citation

This practice direction may be cited as the *State Planning Commission Practice Direction 11 (Deemed Planning Consent Standard Conditions) 2020*.

2 – Commencement of operation

This practice direction commences operation on the day the Phase Two (Rural Areas) Planning and Design Code Amendment comes into effect pursuant to section 73(12) of the *Planning, Development and Infrastructure Act 2016*.

3 – Object of practice direction

The object of this practice direction is to prescribe standard conditions pursuant to section 125(5)(b) of the Act where deemed planning consent is taken to be granted under section 125(3) of the Act.

4 – Interpretation

In this practice direction, unless the contrary intention appears –

Act means the *Planning, Development and Infrastructure Act 2016*.

Note: Section 14 of the Acts Interpretation Act 1915 provides that an expression used in an instrument made under an Act has, unless the contrary intention appears, the same meaning as in the Act under which the instrument was made.

Part 2 – Deemed Planning Consent

5 – Prescribed Conditions for the purpose of Deemed Planning Consent

- (1) The standard condition(s) listed at Attachment 1 of this practice direction are, in accordance with clause 5(2) below, prescribed for the purpose of a deemed planning consent taken to be granted pursuant to section 125(3) of the Act.

- (2) Where the application is for development that is or includes development described in Column 1 of Attachment 1, the conditions listed in the corresponding Column 2 of Attachment 1 are prescribed for the purpose of the deemed planning consent that is taken to be granted in relation to that application.

6 – Notification of Deemed Planning Consent Notice

Where a person has issued a Deemed Planning Consent Notice (“the Notice”) to a relevant authority pursuant to section 125(2) of the Act, the relevant authority to whom the Notice is addressed must, upon receipt of the Notice, provide a copy of the Notice to:

- (a) any other relevant authority that has given or is considering another development authorisation relating to the same development; and
- (b) if the application was referred to a prescribed body under section 122 of the Act—to that prescribed body or bodies; and
- (c) if the owner of land to which the application related is not a party to the application – to the owner of that land; and
- (d) if any person has made a representation to the relevant authority in respect of the proposed development – to that person or persons; and
- (e) in the case of restricted development, the Environment, Resources and Development Court.

Attachments:

Attachment 1: Standard Conditions

Issued by the State Planning Commission on 18 June 2020

Note: This practice direction commences operation in accordance with clause 2 ‘Commencement of operation’



Standard Conditions of Deemed Planning Consent

	Column 1 – Development	Column 2 – prescribed condition(s)
Conditions imposed by a referral agency		
1.	Where the application is required to be referred to a prescribed body for the purposes of section 122 of the <i>Planning, Development and Infrastructure Act 2016</i> .	Any condition imposed by the prescribed body pursuant to section 122(5)(b)(ii) of the <i>Planning, Development and Infrastructure Act 2016</i> .
Ancillary buildings/structures		
2.	Where the application is for or includes an outbuilding, carport, verandah or pergola that is clad in sheet metal, to which General Development Policies – Design in Urban Areas Performance Outcome or Deemed-to-satisfy criteria 16.1 applies.	The structure must be pre-colour treated or painted in a non-reflective colour.
Noise		
3.	Where General Development Policies – Interface Between Land Uses Performance Outcome or Deemed-to-satisfy criteria 4.1 apply.	Noise affecting sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.
4.	Where the application is for or includes a swimming pool to which the General Development Policies – Interface Between Land Uses Performance Outcome or Deemed-to-satisfy criteria 4.3 of the Planning and Design Code apply.	Any swimming pool pump and/or filtration system ancillary to a dwelling erected on the same site is: <ol style="list-style-type: none"> a. enclosed in a solid acoustic structure located at least 5m from the nearest habitable room located on an adjoining allotment, or b. located at least 12m from the nearest habitable room located on an adjoining allotment.

	Column 1 – Development	Column 2 – prescribed condition(s)				
5.	Where General Development Policies – Interface Between Land Uses Performance Outcome 4.6 or Deemed-to-satisfy Criteria 4.6 of the Planning and Design Code apply.	<p>Development incorporating music includes noise attenuation measures that will achieve the following noise levels:</p> <table border="1"> <thead> <tr> <th>Assessment location</th> <th>Music noise level</th> </tr> </thead> <tbody> <tr> <td>Externally at the nearest existing noise sensitive location</td> <td>Less than 8dB above the level of background noise (L_{90,15min}) in any octave band of the sound spectrum (LOCT_{10,15} < LOCT_{90,15} + 8dB)</td> </tr> </tbody> </table>	Assessment location	Music noise level	Externally at the nearest existing noise sensitive location	Less than 8dB above the level of background noise (L _{90,15min}) in any octave band of the sound spectrum (LOCT _{10,15} < LOCT _{90,15} + 8dB)
Assessment location	Music noise level					
Externally at the nearest existing noise sensitive location	Less than 8dB above the level of background noise (L _{90,15min}) in any octave band of the sound spectrum (LOCT _{10,15} < LOCT _{90,15} + 8dB)					
Privacy						
6.	<p>Where:</p> <ul style="list-style-type: none"> a. the application proposes a building exceeding 1 storey; and b. the proposed building is sited adjacent to or within a neighbourhood-type zone¹; and c. General Development Policies – Design Performance Outcome or Deemed-to-satisfy Criteria 14.1 of the Planning and Design Code applies to the proposed development. 	<p>Upper level windows facing side or rear boundaries shared with another residential allotment/site must:</p> <ul style="list-style-type: none"> a. be permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 200mm or b. have sill heights greater than or equal to 1.5m above finished floor level or c. incorporate screening to a height of 1.5m above finished floor level. 				
7.	<p>Where:</p> <ul style="list-style-type: none"> a. the application proposes a building exceeding 1 storey incorporating a balcony; and b. the proposed building is sited adjacent to or within a neighbourhood-type zone²; and c. General Development Policies – Design Performance Outcome or Deemed-to-satisfy Criteria 14.2 of the Planning and Design Code applies to the proposed development. 	<p>All sides of balconies or terraces on upper building levels must be permanently obscured to a height of 1.7m above finished floor level prior to occupation of the building, other than where the longest side of the balcony will face a road (including any road reserve) or reserve (including land held as open space) that is at least 15m wide in all places faced by the balcony.</p>				

¹ Neighbourhood-type zone has the meaning defined in Part 8 of the Planning and Design Code

² Neighbourhood-type zone has the meaning defined in Part 8 of the Planning and Design Code

	Column 1 – Development	Column 2 – prescribed condition(s)
Car Parking and Vehicle Access		
8.	Where the application is for or includes a new car parking area or vehicle access point and to which the General Development Policies – Transport, Access and Parking Performance Outcome or Deemed-to-satisfy criteria 5.1 of the Planning and Design Code applies.	All vehicle car parks, driveways, vehicle entry and manoeuvring areas must be designed, constructed and maintained in accordance with Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6.2009)
Landscaping		
9.	<p>Where the following provisions of the General Development Policies of the Planning and Design Code apply to the application:</p> <ul style="list-style-type: none"> a. Bulk Handling and Storage Facilities Performance Outcomes or Deemed-to-satisfy criteria 2.1 or 2.2; b. Design Performance Outcomes or Deemed-to-satisfy criteria 3.1, 7.5, 7.6, 9.2, 23.1 or 23.2; c. Design in Urban Areas Performance Outcomes or Deemed-to-satisfy criteria 3.1, 6.5, 6.6, 8.2, 10.1, 10.2, 21.1, 34.1 or 34.2; d. Resource Extraction Performance Outcome or Deemed-to-satisfy criteria 3.2; or e. Tourism Development Performance Outcome or Deemed-to-satisfy criteria 2.2 or 2.4. 	Landscaping must be designed, undertaken and maintained in accordance with the plans and details forming part of the development authorisation.

	Column 1 – Development	Column 2 – prescribed condition(s)								
Waste Storage/Collection										
10.	<p>Where:</p> <p>a. the application is for or includes an industry, warehouse, store, retail fuel outlet, depot, or renewable energy facility; and</p> <p>b. General Development Policies – Design Performance Outcome 30.1 or Design in Urban Areas Performance Outcome 42.1 of the Planning and Design Code applies.</p>	<p>Areas for activities including loading and unloading, storage of waste refuse bins in or wash-down areas used for the cleaning of vehicles, vessels, plant or equipment must be:</p> <p>a. designed to contain all wastewater within a bunded and roofed area to exclude the entry of external surface stormwater run-off</p> <p>b. paved with an impervious material</p> <p>c. designed to drain wastewater to either:</p> <p>i. a treatment device such as a sediment trap and coalescing plate oil separator with subsequent disposal to a sewer, private or Community Wastewater Management Scheme or</p> <p>ii. a holding tank and its subsequent removal off-site on a regular basis.</p>								
Hours of Operation										
11.	<p>Where:</p> <p>a. the application is for or includes a consulting room, office or shop; and</p> <p>b. the subject land is located adjacent to a site containing an existing sensitive land use or a neighbourhood-type zone³; and</p> <p>c. General Development Policies – Interface Between Land Uses Performance Outcome or Deemed-to-satisfy criteria 2.1 of the Planning and Design Code applies to the proposed development.</p>	<p>Hours of operation are limited to the following:</p> <table border="1"> <thead> <tr> <th>Class of Development</th> <th>Hours of operation</th> </tr> </thead> <tbody> <tr> <td>Consulting room</td> <td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday</td> </tr> <tr> <td>Office</td> <td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday</td> </tr> <tr> <td>Shop (other than a restaurant)</td> <td>7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday</td> </tr> </tbody> </table>	Class of Development	Hours of operation	Consulting room	7am to 9pm, Monday to Friday 8am to 5pm, Saturday	Office	7am to 9pm, Monday to Friday 8am to 5pm, Saturday	Shop (other than a restaurant)	7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday
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External Lighting										
12.	<p>Where General Development Policies – Interface Between Land Uses Performance Outcomes 6.1 or 6.2 of the Planning and Design Code apply to the application.</p>	<p>All external lighting must be designed and constructed according to conform to Australian Standard (AS 4282-1997).</p>								

³ Neighbourhood-type zone has the meaning defined in Part 8 of the Planning and Design Code

	Column 1 – Development	Column 2 – prescribed condition(s)
13.	<p>Where:</p> <ul style="list-style-type: none"> a. the application includes car parking for 6 or more vehicles; and b. the application does not limit access to the car park during daylight hours; and c. General Development Policies – Transport, Access and Parking Performance Outcome 6.5 of the Planning and Design Code applies to the application. 	<p>Vehicle parking areas must be provided with floodlit entry and exit points which are operational between the hours of sunset and sunrise.</p>
Transportable buildings		
14.	<p>Where the application is for or includes a transportable building and General Development Policies – Design Performance Outcome or Deemed-to-satisfy criteria 19.1 of the Planning and Design Code applies to the proposed development.</p>	<p>The sub-floor space beneath the transportable building and ground level must be clad in a material and finish consistent with the building façade.</p>
Temporary Development		
15.	<p>Where an application seeks approval for a temporary development.</p>	<p>On cessation of the temporary development as specified in the application documentation—</p> <ul style="list-style-type: none"> i. the previous use of the land will revive and the use of the land subject to this development authorisation will cease; and ii. any person who has the benefit of the development will restore the land to the state in which it existed immediately before the development.

	Column 1 – Development	Column 2 – prescribed condition(s)
Regulated and significant trees		
16.	Where the application is for or includes the killing, destruction or removal of a regulated or significant tree.	<p>Either:</p> <ul style="list-style-type: none"> a. Replacement trees must be planted within 12 months of completion of the development at the following rates: <ul style="list-style-type: none"> i. if the development relates to a regulated tree—2 trees to replace a regulated tree; or ii. if the development relates to a significant tree—3 trees to replace a significant tree; or; or b. Payment of an amount calculated in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 be made into the relevant urban trees fund (or if an urban trees fund has not been established for the area where the relevant tree is situated, or the relevant authority is the Commission or an assessment panel appointment by the Minister or a joint planning board, the Planning and Development Fund) in lieu of planting 1 or more replacement trees. Payment must be made prior to the undertaking of development on the land.
Division of land in an Environment and Food Production Area		
17.	Where the application is for or includes the division of land in an Environment and Food Production Area	The additional allotments created will not be used for residential development.
Fortifications		
18.	Where the Commissioner of Police determines that a proposed development involves the creation of fortification pursuant to section 124 of the <i>Planning, Development and Infrastructure Act 2016</i> .	The creation of fortifications is prohibited.