

### 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 came into operation on 31 July 2020.

Version 2 of this practice direction commences operation on 19 March 2021.

##### **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.

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### **Attachments:**

Attachment 1: Standard Conditions

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### **Issued by the State Planning Commission on 18 February 2021**

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

Version 2: Commences operation on the 19 March 2020

Version 1: Commenced operation on 31 July 2020



## STANDARD CONDITIONS OF DEEMED PLANNING CONSENT

	Column 1 – Development	Column 2 – prescribed condition(s)
<b>Conditions imposed by a referral agency</b>		
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> .
<b>Ancillary buildings/structures</b>		
2.	Where the application is for or includes an outbuilding, carport, verandah or pergola that is clad in sheet metal, to which either of the following General Development Policies of the Planning and Design Code apply to the application: <ul style="list-style-type: none"> <li>- Design in Urban Areas [Ancillary Development] Performance Outcome (PO) or Deemed-to-satisfy criteria/Designated performance feature (DTS/DPF) 19.1</li> <li>- Design [Ancillary Development] PO or DTS/DPF 13.1.</li> </ul>	The structure must be pre-colour treated or painted in a non-reflective colour.
<b>Noise</b>		
3.	Where General Development Policies - Interface Between Land Uses [Activities Generating Noise or Vibration] PO or DTS/DPF 4.1 of the Planning and Design Code apply to the application.	Noise that affects sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.

	Column 1 – Development	Column 2 – prescribed condition(s)				
4.	Where the application is for or includes a swimming pool to which the General Development Policies - Interface Between Land Uses [Activities Generating Noise or Vibration] PO or DTS/DPF 4.3 of the Planning and Design Code apply to the application.	<p>The swimming pool pump and/or filtration system ancillary to a dwelling erected on the same site is:</p> <ul style="list-style-type: none"> <li>a. enclosed in a solid acoustic structure located at least 5m from the nearest habitable room located on an adjoining allotment, or</li> <li>b. located at least 12m from the nearest habitable room located on an adjoining allotment.</li> </ul>				
5.	Where General Development Policies – Interface Between Land Uses [Activities Generating Noise or Vibration] PO or DTS/DPF 4.6 of the Planning and Design Code apply to the application.	<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 (<math>L_{90,15min}</math>) in any octave band of the sound spectrum (<math>LOCT_{10,15} &lt; LOCT_{90,15} + 8dB</math>)</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 ( $LOCT_{10,15} < LOCT_{90,15} + 8dB$ )					
<b>Car Parking and Vehicle Access</b>						
6.	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 [Vehicle Parking Rates] PO or DTS/DPF 5.1 of the Planning and Design Code apply to the application.	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)				
<b>Landscaping</b>						

	Column 1 – Development	Column 2 – prescribed condition(s)
7.	<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"> <li>a. Bulk Handling and Storage Facilities [Buffers and Landscaping] PO or DTS/DPF 2.1 or 2.2;</li> <li>b. Design [Landscaping] PO or DTS/DPF 3.1, [Car parking Appearance] PO or DTS/DPF 7.5, 7.6, [Fences and Walls] PO or DTS/DPF 9.2, [Communal Open Space] PO or DTS/DPF 23.4, [Soft Landscaping] PO or DTS/DPF 25.1 or 25.2;</li> <li>c. Design in Urban Areas [Landscaping] PO or DTS/DPF 3.1, [Car parking Appearance] PO or DTS/DPF 7.5, 7.6, [Fences and Walls] PO or DTS/DPF 9.2, [Landscaping] PO or DTS/DPF 13.1, 13.2, [Landscaping] PO or DTS/DPF 22.1, [Soft Landscaping] PO or DTS/DPF 34.1 or 34.2;</li> <li>d. Resource Extraction [Separation Treatments, Buffers and Landscaping] PO or DTS/DPF 3.2; or</li> <li>e. Tourism Development PO or DTS/DPF [Caravan and Tourist Parks] 2.2 or 2.4.</li> </ul>	<p>Landscaping must be undertaken within 12 months of occupation of the development and maintained in accordance with the plans and details forming part of the development authorisation.</p>
<b>Waste Storage/Collection</b>		

	Column 1 – Development	Column 2 – prescribed condition(s)
8.	<p>Where:</p> <ul style="list-style-type: none"> <li>a. the application is for or includes an industry, warehouse, store, retail fuel outlet, depot, or renewable energy facility; and</li> <li>b. General Development Policies – Design [Wash-down and Waste Loading and Unloading] PO 32.1 or Design in Urban Areas [Wash-down and Waste Loading and Unloading] PO 43.1 of the Planning and Design Code apply to the application.</li> </ul>	<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> <ul style="list-style-type: none"> <li>a. designed to contain all wastewater within a bunded and roofed area to exclude the entry of external surface stormwater run-off</li> <li>b. paved with an impervious material</li> <li>c. designed to drain wastewater to either: <ul style="list-style-type: none"> <li>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</li> <li>ii. a holding tank and its subsequent removal off-site on a regular basis.</li> </ul> </li> </ul>

#### Hours of Operation

9.	<p>Where:</p> <ul style="list-style-type: none"> <li>a. the application is for or includes a consulting room, office or shop; and</li> <li>b. the subject land is located adjacent to a site containing an existing sensitive land use or a neighbourhood-type zone<sup>1</sup>; and</li> <li>c. General Development Policies - Interface Between Land Uses [Hours of Operation] PO or DTS/DPF 2.1 of the Planning and Design Code apply to the application.</li> </ul>	<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 any one or combination of the following: a. restaurant b. cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone</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 any one or combination of the following: a. restaurant b. cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone	7am to 9pm, Monday to Friday 8am to 5pm, Saturday and Sunday
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#### External Lighting

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

	<b>Column 1 – Development</b>	<b>Column 2 – prescribed condition(s)</b>
10.	Where General Development Policies - Interface Between Land Uses [Light Spill] PO 6.1 or 6.2 of the Planning and Design Code apply to the application.	All external lighting must be designed and constructed according to conform to Australian Standard (AS 4282-1997).
11.	Where: <ul style="list-style-type: none"> <li>a. the application includes car parking for 6 or more vehicles; and</li> <li>b. the application involves access to the car park during non-daylight hours; and</li> <li>c. General Development Policies – Transport, Access and Parking [Vehicle Parking Areas] PO 6.5 of the Planning and Design Code applies to the application.</li> </ul>	Common vehicle parking areas are provided with lighting to entry and exit points in accordance with Australian Standard (AS 4282-1997).
<b>Transportable buildings</b>		
12.	Where the application is for or includes a transportable building and General Development Policies – Design [Design of Transportable Dwellings] PO or DTS/DPF 21.1 or Design in Urban Areas [Design of Transportable Dwellings] PO or DTS/DPF 25.1 of the Planning and Design Code apply to the application.	The sub-floor space beneath transportable buildings is enclosed to give the appearance of a permanent structure.
<b>Temporary Development</b>		
13.	Where an application seeks approval for a temporary development.	On cessation of the temporary development as specified in the application documentation— <ul style="list-style-type: none"> <li>i. the previous use of the land will revive and the use of the land subject to this development authorisation will cease; and</li> <li>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.</li> </ul>
<b>Regulated and significant trees</b>		

	Column 1 – Development	Column 2 – prescribed condition(s)
14.	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"> <li>a. Replacement trees must be planted within 12 months of completion of the development at the following rates: <ul style="list-style-type: none"> <li>i. if the development relates to a regulated tree—2 trees to replace a regulated tree; or</li> <li>ii. if the development relates to a significant tree—3 trees to replace a significant tree; or; or</li> </ul> </li> <li>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.</li> </ul>
<b>Division of land in an Environment and Food Production Area</b>		
15.	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.
<b>Fortifications</b>		
16.	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.
<b>Urban Tree Canopy</b>		



	Column 1 – Development	Column 2 – prescribed condition(s)
17.	Where the application is for or includes a new dwelling in an area subject to the Urban Tree Canopy Overlay in the Planning and Design Code.	<p>Either:</p> <p>a. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.</p> <p>b. Where provided for by any relevant off-set scheme established under section 197 of the <i>Planning, Development and Infrastructure Act 2016</i> (as at the date of lodgement of the application), payment of an amount calculated in accordance with the off-set scheme may be made in lieu of planting/retaining 1 or more trees as set out in the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). Payment must be made prior to the issue of development approval.</p>
<b>Stormwater Management</b>		
18.	Where the application includes a rainwater tank to be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code.	Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).