

# Draft practice note on Schedule 1 – Additional Permitted Uses – in the Standard Instrument

## 1. WHAT IS AN 'ADDITIONAL PERMITTED USE' IN SCHEDULE 1?

An 'Additional permitted use' in Schedule 1 allows a parcel of land to be used for another reason to that permitted by the surrounding zone in the Land Use Table.

This is outlined in Clause 2.5 of the Standard Instrument.

## 2. WHAT IS THE DIFFERENCE BETWEEN PERMITTING LAND USE THROUGH THE LAND USE TABLE AND SCHEDULE 1?

The Land Use Table permits land use across a zone.

Schedule 1 permits a particular land use on a particular parcel of land.

Schedule 1 land uses are additional to those permitted in the Land Use Table.

## 3. WHY SHOULD SCHEDULE 1 NOT BE USED EXTENSIVELY?

'Additional permitted uses' in Schedule 1 are special exceptions to those provided in the Land Use Table.

Overuse of 'additional permitted uses' in Schedule 1 will make land use permissibility difficult, and undermine the clarity of the LEP.

## 4. CAN COUNCILS CHOOSE NOT TO INCLUDE ANY ITEMS IN SCHEDULE 1?

Yes. While councils must adopt Clause 2.5 and the associated Schedule 1 in the Standard Instrument LEPs, Schedule 1 can be empty when the LEP is made.

## 5. CAN COUNCILS CHOOSE TO MAP THE ITEMS IN THE LEP SCHEDULE 1?

Yes. While this is not compulsory, councils may choose to include the Schedule 1 items on the Additional Permitted Uses Map (APU Map). This may be preferable when the proposed additional use relates to part of a lot.

## 6. HOW SHOULD SCHEDULE 1 ITEMS BE MAPPED?

Councils can choose their preferred way of showing relevant Schedule 1 sites on the APU Map. This could be through clear numbering or labelling with adequate references in LEP Schedule 1.

## 7. WILL A LISTING IN SCHEDULE 1 AFFECT EXISTING USE RIGHTS?

A listing in Schedule 1 effectively removes previous existing use rights and makes existing non-conforming uses permissible on that parcel of land.

## 8. WHAT IS AN APPROPRIATE USE OF SCHEDULE 1?

Schedule 1 should only be used if it can be demonstrated the proposed land use is appropriate on the particular parcel of land, but not generally within the zoning.

For example, a proponent seeks to have a hazardous storage facility permitted on an isolated, poorly serviced, 40ha site to facilitate the expansion of an existing fireworks factory. The use would otherwise be prohibited under the current site zoning (RU1) and the use is not permitted anywhere else in the local government area.

Several options were considered including permitting 'hazardous storage facilities' in the RU1 zone, inclusion of hazardous storage establishment as permitted with consent within another existing zone, or introducing a new zone specifically into the LEP to facilitate this development and rezoning the 40ha site accordingly.

The use of Schedule 1 was considered appropriate in this instance as the options would represent a change in council policy for the location.

This would potentially permit a range of other uses that are unlikely to be achievable or appropriate on the site and would result in lengthy delays to the proposal in preparing a new brand new zone, jeopardising the ongoing operation of the business.

### 9. WHAT IS AN INAPPROPRIATE USE OF SCHEDULE 1?

Schedule 1 should not be used if the proposed land use could be permitted by an existing or future zoning.

For example, a site on a busy main road is zoned for business purposes and is currently used as a service station. The service station owners propose to expand onto the adjoining site and include a small-scale convenience store.

It would be inappropriate for council to list the additional site in Schedule 1 to allow for commercial and retail premises and address future concerns if the service station closed down.

Instead, the site should be rezoned to the adjoining business zone to allow for the expansion. The location is currently suited to business purposes and the proposed expansion would not generate substantial impacts on the retail hierarchy of the area.

Identifying a zone with appropriate zone objectives, development standards and range of permitted land uses is a more appropriate approach to consider future site use on merit.

### FURTHER INFORMATION

For more information, contact your nearest regional office of the Department of Planning & Infrastructure via (02) 9228 6111 or <http://www.planning.nsw.gov.au/contact-us>.

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