

# Preliminary Land Classification Guidelines 2024



made under the

*Emergency Services Levy Act 2017*

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## 1 Name

- 1.1.1 This instrument is the *Preliminary Land Classification Guidelines 2024* (Guidelines).

## 2 Authority

- 2.1.1 The Treasurer may issue guidelines for the purposes of emergency services funding reform under Section 47E of the *Emergency Services Levy Act 2017*.

## 3 Overview of requirements

- 3.1.1 These Guidelines govern the classification of land and identification of property ownership information (collectively referred to as ‘preliminary land classifications’) required to be undertaken by local councils in NSW (councils) under Section 47A of the *Emergency Services Levy Act 2017*. A council includes the Lord Howe Island Board and a reference to the area of a local council means, for the Lord Howe Island Board, Lord Howe Island.
- 3.1.2 Councils are required to classify all parcels of land within their area to be up to date as at 1 July 2024 or later and, in accordance with Sections 47B(1) and 47B(2) of the *Emergency Services Levy Act 2017* provide this data to the Chief Commissioner of State Revenue (Chief Commissioner) by **2 December 2024**.
- 3.1.3 The Chief Commissioner may provide an extension of time of no more than 3 months to a council upon application if the council provides evidence of extenuating circumstances relating to the resourcing of the council and the task being undertaken.
- 3.1.4 This information is to be provided in the form prepared by the Chief Commissioner and available on the Revenue NSW website at:  
[https://www.revenue.nsw.gov.au/\\_resources/documents/Preliminary-Land-Classification-Data-Template-2024.pdf](https://www.revenue.nsw.gov.au/_resources/documents/Preliminary-Land-Classification-Data-Template-2024.pdf)

## 4 Preliminary land classification requirements

### 4.1 Overview requirements

- 4.1.1 Subject to these Guidelines, a council must classify each parcel of land in its area to be within one of the following Property Sector Classifications:
- Government land (see Section 5.2)
  - Public benefit land (see Section 5.3)
  - Farmland (see Section 5.4)
  - Residential land (see Section 5.5)
  - Industrial land (see Section 5.6), or
  - Commercial land (see Section 5.7).
- 4.1.2 In addition, a council must take reasonable steps to ascertain whether a parcel of land is to be sub-classified as vacant land and sub-classify the parcel of land as vacant land if the land meets the requirements for sub-classification (see Section 5.8). A council

must provide to the Chief Commissioner details of the steps they have taken and demonstrate that accessible data sources have been drawn upon to fulfil their obligations.

- 4.1.3 A council must also identify whether a parcel of land is owned by a person who is a pensioner for the purposes of these Guidelines (see Section 5.9).

## 4.2 Parcel of land

### *Parcels subject to classification*

- 4.2.1 Each parcel of land that is a separate parcel of land for the purposes of these Guidelines must be separately classified.
- 4.2.2 Land is taken to be a separate parcel of land for the purposes of these Guidelines:
- if the land is separately valued under the *Valuation of Land Act 1916*,
  - if the land is the subject of one valuation under the *Valuation of Land Act 1916*, or
  - in any other circumstances provided for by or under these Guidelines.

### *Strata lots*

- 4.2.3 A parcel of land includes a parcel that comprises a stratum within the meaning of the *Valuation of Land Act 1916*. A 'stratum' means a part of land consisting of a space or layer below, on, or above the surface of the land, or partly below and partly above the surface of the land, defined or definable by reference to improvements or otherwise, whether some of the dimensions of the space or layer are unlimited or whether all the dimensions are limited; but refers only to a stratum ratable or taxable under any Act. 'Strata' is the plural of stratum.
- 4.2.4 Any strata lots and company titles treated as a separate parcel of land for the purposes of categorisation under Section 518A of the *Local Government Act 1993* is taken to be a separate parcel of land under these Guidelines.

### *Parcels of land in two or more council areas*

- 4.2.5 If different parts of the same parcel of land are situated in different council areas, each part of the parcel that is situated in a separate area is taken, for the purposes of these Guidelines, to be a separate parcel of land.
- 4.2.6 Accordingly, a council must classify, and sub-classify (if necessary), the part of the parcel of land that is situated in the council's area, as if that land were a separate parcel of land.
- 4.2.7 It is noted that Section 28 of the *Valuation of Land Act 1916* provides for the apportionment of a land valuation between parcels of land that are situated in more than one district.

### *Aggregation of parcels*

- 4.2.8 If a council aggregates the land values of parcels of land under Section 548A of the *Local Government Act 1993* for the purpose of charging a rate, the council must, subject to the below, also aggregate the parcels and treat the aggregated parcel as a single parcel for the purposes of these Guidelines.

- 4.2.9 The parcels may only be aggregated for the purposes of these Guidelines if the parcels (disregarding the aggregation) have the same classification or sub-classification (if any) under these Guidelines.

### **4.3 Land classification process**

- 4.3.1 Subject to these Guidelines, each separate parcel of land must be classified in accordance with the process outlined in this section.
- 4.3.2 When classifying land, a council must first consider whether the land is government land (refer Section 5.2 for more detail).
- 4.3.3 If the land meets the requirements for classification as government land, the council is to classify the land as government land.
- 4.3.4 If the land does not meet the requirements for classification as government land, the council must:
- a. consider whether the land is public benefit land (refer to Section 5.3 for more detail), and
  - b. if the land meets the requirements for classification as public benefit land, classify the land as public benefit land.
- 4.3.5 If the land does not meet the requirements for classification as either government land or- public benefit land, the council must:
- a. consider whether the land should be classified as farmland or residential land (refer Sections 5.4 and 5.5 for more detail), and
  - b. if the land meets the requirements for classification as farmland or residential land, classify the land as farmland or residential land, respectively.
- 4.3.6 If the land does not meet the requirements for classification as government land, public benefit land, farmland or residential land, the council must:
- a. consider whether the land should be classified as industrial land (refer to Section 5.6 for more detail), and
  - b. if the land meets the requirements for classification as industrial land, classify the land as industrial land.
- 4.3.7 If the land does not meet the requirements for classification as government land, public benefit land, farmland, residential land or industrial land, the council is to classify the land as commercial land (refer to Section 5.7 for more detail).

### **4.4 Assessing the use of a parcel of land**

- 4.4.1 When assessing the dominant use of a single parcel of land for the purposes of classification, councils must take into account the following where reasonably available:
- a. the amount of land actually used for any purpose,
  - b. the nature, extent, and intensity of the various uses of the land

- c. the extent to which land is used for activities which are incidental to a common business or industry of a type specified,
- d. the extent to which land is used for purposes which are unrelated to each other, and
- e. the time and labour resources spent in using the land for each purpose.

## 4.5 Classification of land not currently being used

- 4.5.1 Where land is currently not being used, the approach to classification of the land will apply (in a similar manner to Section 519 of the *Local Government Act 1993*) as follows:
- a. if the land is zoned or otherwise designated for use under an environmental planning instrument – the land is to be classified according to any purpose for which the land may be used after taking into account the nature of any improvements on the land and the nature of surrounding development, or
  - b. if the land is not zoned or designated – the land is to be classified according to the predominant categorisation of surrounding land.

## 4.6 Classification of mixed development land

- 4.6.1 If a valuation has been prepared under the *Valuation of Land Act 1916* for mixed development land, a council must provide two classifications for the parcel of land. The council may classify the part of the land that is non-residential as industrial land, commercial land, or public benefit land, as the case requires, and classify the remaining part of the land as residential land.
- 4.6.2 Mixed development land and non-residential land have the same meanings as in Division 5 of Part 1B of the *Valuation of Land Act 1916*.

# 5 Classifications in detail

- 5.1.1 The following section provides definitions of the property sector classifications, vacant land, and pensioners.

## 5.2 Government land

- 5.2.1 A parcel of land is to be classified as government land, unless otherwise specified in these Guidelines, if the land is:
- a. owned by the Crown, a statutory body representing the Crown, a State Owned Corporation or a council, unless the land is the subject of a lease for value and the dominant use of the land is for the purposes of the lease,
  - b. owned by the Commonwealth,
  - c. situated within any part of the Western Division (within the meaning of the *Crown Land Management Act 2016*) that is not constituted as an area under the *Local Government Act 1993*,

- d. the premises of a mission to which the *Diplomatic Privileges and Immunities Act 1967* of the Commonwealth applies, or
- e. specified in these Guidelines to be government land.

5.2.2 Lease has the same meaning as it has in the *Local Government Act 1993*. Lease for value means a lease for more than nominal rent.

5.2.3 Despite land being subject of a lease for value and the dominant use of the land is for the purposes of the lease, the land is to be classified as government land if the land is:

- a. owned by the New South Wales Land and Housing Corporation, or by the Aboriginal Housing Office, and the dominant use of the land under the lease is for residential accommodation (that is, the type of residential accommodation as described in section 516(1)(a) of the *Local Government Act 1993* that permits rateable land to be categorised as residential under Section 516 of that Act),
- b. owned by the Crown, a statutory body representing the Crown, a State owned corporation or a council and leased to an individual who is employed within the government sector (within the meaning of the *Government Sector Employment Act 2013*), a State owned corporation or a council in his or her capacity as an employee, and the dominant use of the land under the lease is for residential accommodation, or
- c. specified in these Guidelines to be government land.

5.2.4 The following land is specified to be government land:

- a. Land owned by the Crown, a statutory body representing the Crown or by a council that is the subject of a lease to the Commonwealth, the Crown, a statutory body representing the Crown, or a council,
- b. Land that is the subject of a lease and is used for the purpose of a government school (within the meaning of the *Education Act 1990*), but only if that use is the dominant use of the land, or
- c. Schedule 14 lands (Lands of cultural significance to Aboriginal persons) or *Aboriginal Land Rights Act 1983* lands, within the meaning of Part 4A of the *National Parks and Wildlife Act 1974*, that are leased to the Minister for the Environment and the Minister for Climate Change under that Part.

5.2.5 The following land is not to be classified as government land:

- a. Land owned by Essential Energy.

### 5.3 Public benefit land

5.3.1 A parcel of land is to be classified as public benefit land if it is not classified as government land, and:

- a. the land is not-for-profit-land (that is, the land is not used for any profit-making purpose or the dominant use of the land is for a purpose that is not a profit-making purpose),
- b. the owner of the land is using the land for a public benefit use referred to in **Schedule A**, and
- c. that use is the dominant use of the land.

5.3.2 Land may be used for a profit-making purpose even if no profit is made.

## 5.4 Farmland

- 5.4.1 A parcel of land is to be classified as farmland if it is not classified as government land or public benefit land, and:
- a. it is categorised as farmland by the council for ratings purposes under Chapter 15, Part 3 of the *Local Government Act 1993*, or
  - b. would be so categorised if it were rateable land under that Act.

## 5.5 Residential land

- 5.5.1 A parcel of land is to be classified as residential land if it is not classified as government land or public benefit land and:
- a. it is categorised as residential by the council for ratings purposes under Chapter 15, Part 3 of the *Local Government Act 1993*, or
  - b. would be so categorised if it were rateable land under that Act.

## 5.6 Industrial land

- 5.6.1 A parcel of land is to be classified as industrial land if it is not classified as government land, public benefit land, farmland or residential land, and the dominant use of the land is for a use referred to in **Schedule B**.

## 5.7 Commercial land

- 5.7.1 A parcel of land is to be classified as commercial land as a residual classification if land is not classified as government land, public benefit land, residential land, farmland, or industrial land.

## 5.8 Vacant land

- 5.8.1 A parcel of land is to be sub-classified as vacant land if:
- a. the land is residential land, industrial land or commercial,
  - b. there are no buildings or structures on the land that are being used or that could be used for a residential, industrial, or commercial purpose, and
  - c. the land is not being used for storage or treatment of goods, materials, or any other thing.

## 5.9 Pensioners

- 5.9.1 A parcel of land is to be identified as owned by a person who is a ‘pensioner’ if the owner occupies the dwelling as their sole or principal place of living and is a member of one or more of the following classes of persons:
- a. persons who receive a pension, benefit or allowance under Chapter 2 of the *Social Security Act 1991* of the Commonwealth, or a service pension under Part III of the *Veterans’ Entitlements Act 1986* of the Commonwealth, and who are entitled to a pensioner concession card issued by or on behalf of the Commonwealth Government,
  - b. persons who receive a pension from the Commonwealth Department of Veterans’ Affairs as —
    - i. a war widow or war widower within the meaning of the *Veterans’ Entitlements Act 1986* of the Commonwealth,
    - ii. the unmarried mother of a deceased unmarried member of the Australian Defence or Peacekeeping Forces, or
    - iii. the widowed mother of a deceased unmarried member of the Australian Defence or Peacekeeping Forces,and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
  - c. persons who have received a lump sum mentioned in Section 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004* of the Commonwealth or are receiving a weekly amount mentioned in that paragraph, and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
  - d. persons who receive a general rate of pension adjusted for extreme disablement under Section 22(4) of the *Veterans’ Entitlements Act 1986* of the Commonwealth, or a special rate of pension under Section 24 of that Act, or
  - e. persons who receive, or who at some point in their life have been eligible for, a Special Rate Disability Pension under the *Military Rehabilitation and Compensation Act 2004* of the Commonwealth.
- 5.9.2 A pensioner for the purpose of these Guidelines means an eligible pensioner for rating purposes under Chapter 15 of the *Local Government Act 1993*.

## Schedule A – Public benefit land

For a parcel of land to meet the requirements for classification as public benefit land for the purposes of the preliminary land classification activities, its dominant use must be for one of the following uses.

1. Animal shelter, being premises used by a community group for the treatment or adoption of animals.
2. Approved education and care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) or a State regulated education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*).
3. Cemetery or crematorium, but only if the land is included on the Cemeteries and Crematoria Register under the *Cemeteries and Crematoria Act 2013*.
4. Community centre, being a facility used for the physical, social, cultural or intellectual development or welfare of the community.
5. Cultural site, being an aquarium, art gallery, botanic garden, concert hall, library or archive, monument, memorial, museum, observatory, theatre or zoo.
6. Emergency services, being any of the following:
  - a. a fire station, an ambulance station or a police station,
  - b. land used by an emergency service for training purposes, or
  - c. land used by the State Emergency Service (within the meaning of the *State Emergency Service Act 1989*).
7. Higher education provider (within the meaning of Division 16, Part 2-1 of the *Higher Education Support Act 2003* of the Commonwealth).
8. Hospital (within the meaning of the *Public Health Act 2010*) or rehabilitation clinic.
9. Nature, being any of the following:
  - a. a public bicycle track, park, or walking trail,
  - b. a flora reserve or State forest (within the meaning of the *Forestry Act 2012*),
  - c. a marine park (within the meaning of the *Marine Estate Management Act 2014*),
  - d. a conservation area or state conservation area (within the meaning of the *National Parks and Wildlife Act 1974*),
  - e. land that is the subject of a conservation agreement under the *Biodiversity Conservation Act 2016*,
  - f. a wilderness area (within the meaning of the *Wilderness Act 1987*), or
  - g. a World Heritage site.
10. A non-government school (within the meaning of the *Education Act 1990*).
11. Place of worship.
12. Public boat shed, ramp or jetty.

13. Public toilet or amenities block.
14. Sporting complex, including sports club facilities.
15. TAFE establishment (within the meaning of the *Technical and Further Education Commission Act 1990*).

## Schedule B – Industrial land

For a parcel of land to meet the requirements for preliminary land classification as industrial land, its dominant use must be for one of the following purposes.

1. Manufacturing, including:
  - a. general purpose factory, being a building or place used for manufacturing, assembly or repairs (for example, a factory, motor vehicle repair facility, or workshop),
  - b. a food processing factory, being a purpose-built food processing facility (for example, a cannery, milk production plant, dairy or processing plant), and
  - c. a major industrial complex with special purpose improvements for large-scale industrial use (for example, a car plant or paper mill).
2. Warehousing, distribution or storage, including:
  - a. a general purpose warehouse used for the storage of goods, and
  - b. open-area storage, with extensive hardstand area used for the storage of goods and equipment (for example, a wrecking yard, concrete batching yard, or container storage).
3. Bulk grain storage, a silo or other structure used for the storage of grain, or bunkers used for the storage of grain.
4. Bulk liquid storage fuel depot, being a building or place with tanks for the storage and distribution of bulk liquids (for example, a fuel depot or oil terminal) but excluding retail fuel outlets and service stations.
5. Coolstore or coldstore, being a purpose-built structure used for the cold storage of perishable products.
6. Works depot, being a building or place used as a works depot in conjunction with infrastructure maintenance (for example, a municipal depot).
7. Tannery or skins drying depot, being a building or place used for the tanning of skins and hides.
8. Abattoir, being a purpose-built structure used for the holding and slaughter of stock and the preparation of meat for the wholesale market.
9. Stock sales yard, being a purpose-built structure used for the yarding and selling of stock.
10. Rendering plant, being a purpose-built structure used for the extraction of lard, tallow and oil from animal parts.
11. Oil refinery, being a purpose-built structure used in the refinement and storage of petroleum products.
12. Petro-chemical manufacturing, being a purpose-built structure used in the production of chemical-based products from petroleum.
13. Sawmill, being a purpose-built structure used for the milling and curing of timber.

14. Mining, being land that is classified as mining for the purposes of the *Local Government Act 1993*.
15. Other extractive industries, including the extraction of sand, gravel, stone, clay, limestone, dolomite, gypsum, soil, precious metals, uranium, bauxite, gold, other metals, precious stones, and other minerals and ore, and the extraction of non-metals by a licensed operator, from deep underground, by way of an inclined or vertical passageway or shaft equipped with lifting machinery.
16. Tailings dump, being the storage or treatment of minerals or non-minerals in tailing dumps or dams.
17. Oil well or bore.
18. Water well, being a narrow hole drilled or dug into the earth for the production of water, including mineral water, water for stock or domestic purposes, and water for use in irrigation.
19. Evaporative salt pan.
20. Salt extraction basin, being the extraction of salt from a lake or man-made evaporative basin.
21. Dredging operations, being activities involving dredging for the extraction, treatment and restoration of submerged materials.
22. Gas or fuel well, being specialist infrastructure used as a gas or fuel well.
23. Gas or fuel refinery.
24. Gas or fuel storage excluding retail fuel outlets and service stations.
25. Electricity power generators, including thermal power plants, hydroelectric generators, wind farms, and solar electric generation.
26. Battery storage facility.
27. Refuse incinerator.
28. Refuse transfer station.
29. Sanitary landfill, being the disposal of household, commercial, industrial and public waste.
30. Refuse recycling.
31. Hazardous materials or toxic storage centre.
32. Toxic by-product storage or decontamination site for the storage of mining waste.
33. Sewerage or stormwater treatment plant.
34. Sewerage or stormwater pump station.
35. Water treatment plant, including a desalination plant.
36. Water storage tank, pressure control tower or pumping station.
37. Weighbridge.
38. Railway switching and marshalling yards.
39. Railway maintenance facility.

40. Railway passenger terminal, including a station.
41. Railway freight terminal facility.
42. Tramway maintenance and terminal facility.
43. Tram stop, including a shelter or a platform.
44. Airport hangar.
45. Heliport.
46. Port dock or berth, including the seabed adjoining a wharf with infrastructure used for the berthing of ships.
47. Cargo port wharf or pier and apron, being specialist infrastructure to facilitate the movement of containers and cargo to and from ships.
48. Wharf storage sheds, being enclosed storage facilities within a wharf.
49. Piers, storages and slipways used for maintenance and launching of boats.
50. Lighthouse and navigation aids, being specialist infrastructure used to assist in sea navigation.
51. Postal exchange and mail and package sorting centre.
52. Telecommunications buildings and maintenance depots.
53. Telecommunications towers and aerials.
54. Printing works and printing press, being specialist infrastructure used for printing works (for example, newspaper print and magazines).
55. Purpose-built telephone exchange.