

Protecting public bushland

Implementing public bushland provisions in local environmental plans

Public bushland is a resource of great value to the community. As well as its natural heritage, public bushland has inherent aesthetic, recreational, psychological, educational, conservation and scientific value. Importantly, public bushland contributes to the landscape quality of an area and provides a buffer between residential development and sources of noise and pollution.

Public bushland on public open space across the Greater Sydney and Central Coast regions will be protected under provisions introduced in local environmental plans following the repeal of Chapter 6 (Bushland in Urban Areas) of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity and Conservation SEPP) (see Attachment 1 at the end of this document).

The provisions present a detailed approach to identifying and protecting areas of public open space containing bushland, and for assessing the impact on this public bushland from development on and adjacent to the land.

Purpose of this fact sheet

This fact sheet will help:

- planning professionals in local government to assess development applications
- planners, developers, builders and other professionals to prepare a development application
- the wider community to understand the values of protecting and preserving public bushland.

This fact sheet gives guidance on where the public bushland provisions apply, the types of development applications it applies to, and what should be considered when implementing the provisions. This fact sheet replaces circulars No. 114 (1986) and No. B13 (1989).

Background

Public bushland areas are important to conserving plant and animal species, particularly where they can be linked to create green corridors. They allow the movement of many species, especially non-flying mammals.

Having public bushland within cities and towns is important because it gives schools, universities and other institutions easy access for education and research.

Some areas of public bushland have considerable cultural and heritage value, and also contain important geological formations.

Public bushland areas also help stabilise the soil surface and play a critical role in reducing the urban heat island effect.

Definition of public bushland

Public bushland means land on which there is vegetation that is either a remaining area of the natural vegetation of that land or representative of the structure and floristics of the natural vegetation of that land and is owned, managed or reserved for open space or environmental conservation by the council or a public authority.

Since the introduction of the Standard Instrument Local Environmental Plan, local environmental plans no longer reference a 'public open space zone'. The term 'public bushland' now replaces references to land zoned or reserved for public open space.

Public bushland applies to the whole ecosystem. It encompasses not only the vegetation on the land but also the surface and subsurface soils, leaf litter, the seed bed and any rocks, stones or pebbles.

Public bushland could be disturbed and/or degraded by a range of processes including the invasion of introduced plant species, rubbish dumping and uncontrolled access by vehicles.

The definition of 'public bushland' is designed to protect remnant areas of natural vegetation. These cover a wide variety of plant associations that range from dune thickets and coastal heaths to various forest and woodland types and mangroves and swamp forests. The definition reflects the dynamic nature and variety of bushland in the urban setting. It allows for many disturbed areas to be restored and regenerated with suitable management.

The definition should be interpreted liberally rather than restrictively.

Further, the definition does not apply where the species range is not characteristic of the natural vegetation type of the land. For example, bushland does not fit the definition if it contains predominantly native species that naturally occur in a different geographic area or the vegetation type would not naturally be found on the land in question.

A stand of vegetation may be captured in the definition of 'public bushland' if it exhibits the following attributes:

- the assemblage of flora species present is characteristic of the natural vegetation type of the land or contains a component of native flora species sufficient to re-establish the natural vegetation type through management, and
- the structure of the vegetation is recognisably a remnant of the natural vegetation type of the land or is regrowth that has the potential to achieve a near-natural structure.

Where the provisions apply

The provisions for bushland protection apply within the local government areas shown on the map in Attachment 1 at the end of this document. These areas are experiencing significant pressure to develop or disturb scarce and valuable urban bushland.

Within these local government areas, for public bushland provisions to apply, the land must:

- not be on land in zones RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry, RU4 Primary Production Small Lots or RU5 Village
- be owned, managed or reserved by a council or a public authority for open space or environmental conservation.

The provisions provide extra considerations for development applications for land **adjoining** public bushland in these local government areas.

The provisions do not apply to land that is already protected under the following Acts and policies:

- land reserved, acquired or dedicated under the NSW *National Parks and Wildlife Act 1974* as a national park, a historic site, a state conservation area, a regional park, a karst conservation reserve, a nature reserve or an Aboriginal area
- land within a State forest, flora reserve or timber reserve (within the meaning of the NSW *Forestry Act 2012*)
- land to which Chapter 7 of the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 applies.

Figure 1 outlines the steps to identify whether the public bushland provisions apply.

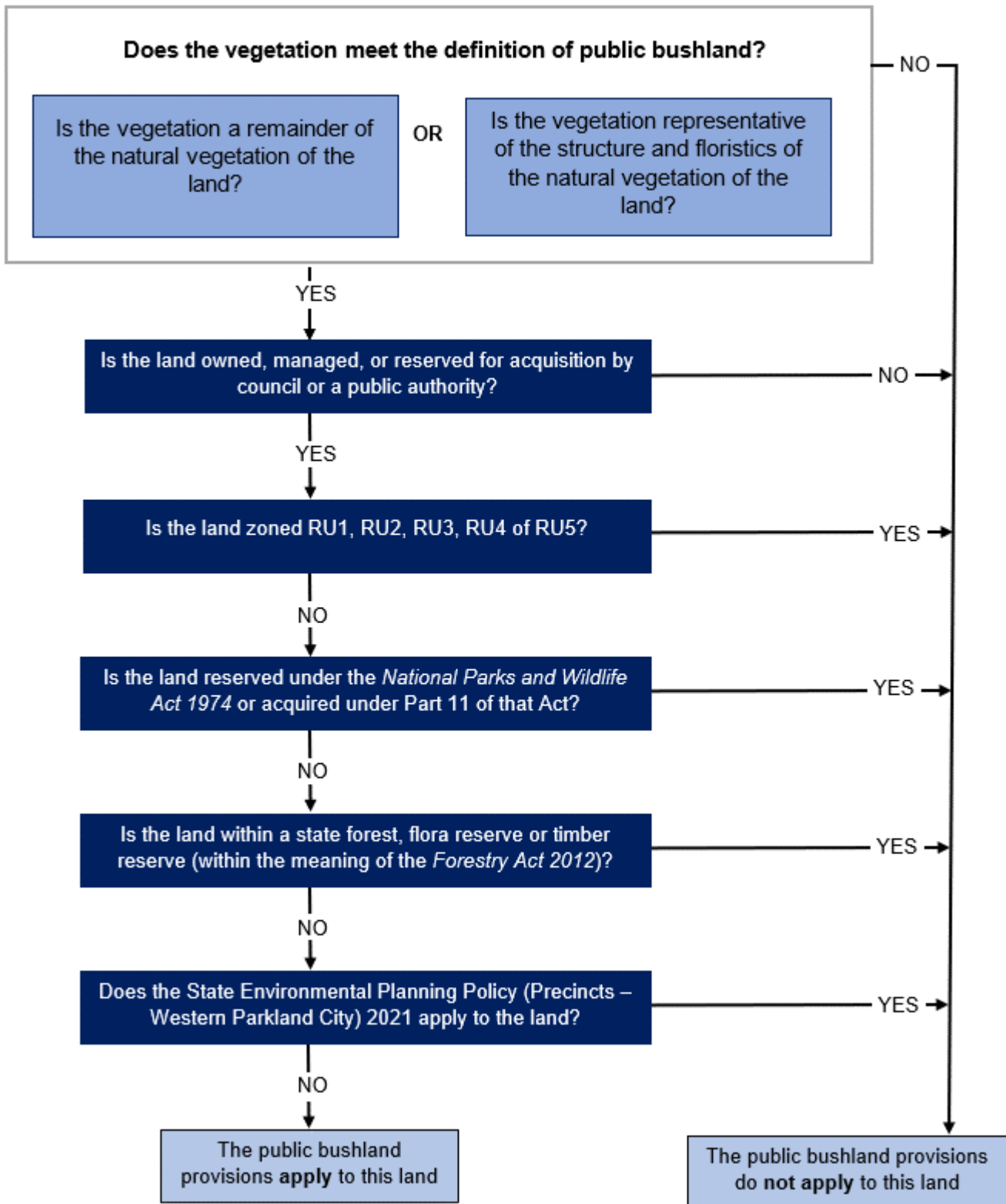


Figure 1 Process to identify whether public bushland provisions within a local environmental plan apply to land

Aim of the public bushland provisions

The objective of the public bushland provisions is to protect bushland in urban areas (including rehabilitated areas) and ensure the ongoing ecological viability of that bushland by:

- preserving biodiversity, habitat corridors and between public bushland and other nearby bushland, and
- mitigating disturbance caused by development, and
- preserving bushland as a natural stabiliser of the soil surface, and
- preserving existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores, and
- preserving the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of the land.

The provisions focus on the protection of bushland and the associated attributes of the land, not the ongoing management of the land. Therefore, the provisions primarily relate to development control, as opposed to bushland management, which is guided by the NSW *Local Government Act 1993* and its requirements for plans of management.

Development controls

Development consent

Development that will or is reasonably likely to disturb public bushland must get development consent from the relevant consent authority before any work is done.

Development does not require consent if it is for land clearing of a kind referred to in section 600(a)-(p) of the NSW *Local Land Services Act 2013* or for at least one of the following purposes:

- facilitating recreational use of the bushland in line with a plan of management prepared under section 36 of the *Local Government Act 1993*
- construction, operation or maintenance of pipelines to carry water, sewerage, gas or in accordance with a licence under the NSW *Pipelines Act 1967*
- construction, operation or maintenance of electricity or telecommunication lines
- bushfire hazard reduction
- construction or maintenance of classified roads as defined in the NSW *Roads Act 1993*.

Note that other environmental planning instruments may still require development consent.

Assessing direct disturbance to public bushland

For a consent authority to grant consent for development that will or is likely to disturb public bushland, the authority must be satisfied:

- the disturbance of the bushland is essential for a purpose in the public interest, and
- there is no reasonable alternative to the disturbance, and
- the development minimises the amount of bushland to be disturbed, and

- the development includes measures to remediate the disturbed bushland.

To ‘**disturb**’ public bushland means to remove vegetation from public bushland or cause a change in the natural ecology of the public bushland that results in the destruction or degradation of the bushland.

It can include both the direct and indirect impacts of a development.

Assessing indirect disturbance to adjoining public bushland

For a consent authority to grant consent to development on land adjoining public bushland, it must consider:

- the need to retain public bushland adjoining the site of the development, and
- the likely effect of the development on the public bushland, including soil erosion, siltation of streams and waterways and the spread of weeds and non-native plants, and
- other matters the consent authority considers relevant to the protection and preservation of public bushland.

Table 1 identifies the desired planning principles and outcomes that may be relevant to the consideration of any indirect impacts on adjoining public bushland from development.

Table 1. Planning principles for and desired outcomes when managing indirect impacts from development on adjoining public bushland

Environmental issue	Planning principle/outcome
Ecological viability and connectivity	<ul style="list-style-type: none"> • Maintenance and, where possible, enhancement of vegetation and habitats that provide connectivity from public bushland to other areas of bushland • Protection of bushland connectivity for the maintenance of ecological viability of the connection and the public bushland itself
Erosion and sediment control	<ul style="list-style-type: none"> • No detrimental change in hydrological regimes, minimisation of erosion and prevention of sediment movement during both the construction and post-construction phases of the development or activity
Stormwater run-off	<ul style="list-style-type: none"> • Minimisation of nutrient levels and management of flow regimes/patterns of stormwater to mimic natural levels before reaching the land to which the provisions apply
Management implications of pests, weeds and edge effects to public bushland from development on adjoining land	<ul style="list-style-type: none"> • No increase in weeds or decreased ability to manage access by domestic pets • No negative impacts on cultural or natural heritage values or other impacts of higher visitation • No negative impacts from changes to the nature of the vegetation surrounding the public bushland • No encroachments into or informal clearing of public bushland
Visual, odour, noise, air quality, urban heat impacts and amenity	<ul style="list-style-type: none"> • No significant decrease of amenity on land to which the provisions apply due to adjacent development

Interactions with other planning instruments

Biodiversity and Conservation SEPP

There is no inconsistency between the public bushland provisions within local environmental plans and Chapter 2 (Vegetation in non-rural areas) of the Biodiversity and Conservation SEPP. This is because the public bushland provisions deal with development that require consent, while the SEPP provides pathways for councils to grant a permit or require native vegetation panel approval for vegetation clearing. These pathways do not overlap.

Clause 2.7(1) of the Biodiversity and Conservation SEPP says the requirements for approval or a permit under the SEPP do not apply if the clearing is of a kind authorised under section 600 of the Local Land Services Act. This includes clearing already authorised by a development consent.

NSW Biodiversity Conservation Act 2016

The *NSW Biodiversity Conservation Act 2016* may apply to development applications where the public bushland provisions within local environmental plans also apply. In this case, they would be complementary and would apply if the proposed development involves clearing native vegetation that exceeds the biodiversity offset scheme threshold.

The proposal will need to be assessed under the:

- public bushland provisions within the local environmental plan regarding the proposal's effect on public bushland
- *Biodiversity Conservation Act 2016* regarding its biodiversity impacts.

You can find more information on the [Biodiversity Offsets Scheme pages](#) of the department's website.

Strategic planning and management

Ministerial directions

The Public Bushland Ministerial Direction replaces Clause 10 of the repealed State Environmental Planning Policy No. 19—Bushland in Urban Areas. It ensures the strategic planning functions are included in the appropriate part of the planning system.

The local planning direction aims to protect public bushland, including rehabilitated areas, and ensure the bushland's ecological viability. This includes giving priority to retaining public bushland through any planning proposal process.

Plans of management

The *Local Government Act 1993* requires plans of management for community land. Councils should prepare new or updated plans of management according to the requirements of section 36 of the Act.

Development that relates to recreational use of bushland identified in a plan of management may not need development consent. The plan of management must specify, among other things, measures for recreational use, reduction of bushfire hazards, prevention of degradation and remediation.

The public bushland provisions will apply to certain types of community land (such as bushland) when development consent applies to the land or adjoining land.

Relationship to other government initiatives

The public bushland provisions support several NSW Government non-legislative initiatives. They ensure the values of remnant bushland in urban areas are recognised and considered in the development assessment processes. These government initiatives include:

- **increasing tree canopy to 40% in Greater Sydney by 2036**

The initiative aims to increase resilience to climate change and mitigate urban heat. It includes planting 5 million trees by 2036, with the first million planted by the end of 2022 as part of the 'greening our city' Premier's Priority.

- **the Greener Neighbourhoods Program**

The program empowers local councils to create cooler and shadier neighbourhoods, providing a framework for canopy protection and enhancement across Greater Sydney. The support includes providing grant funding, canopy data and policy guidance to strengthen strategic planning and tree management policies that contribute to long-term canopy targets.

- **enhancing the Sydney green grid**

The 'green grid', identified by the NSW Government Architect, is a network of interlinked tree-lined walkways, cycleways and open spaces across the city and green connections from people's homes to local centres, workplaces and leisure areas. It is an integral part of the Greater Sydney regional and district plans and underpins the state's Greener Places strategy.

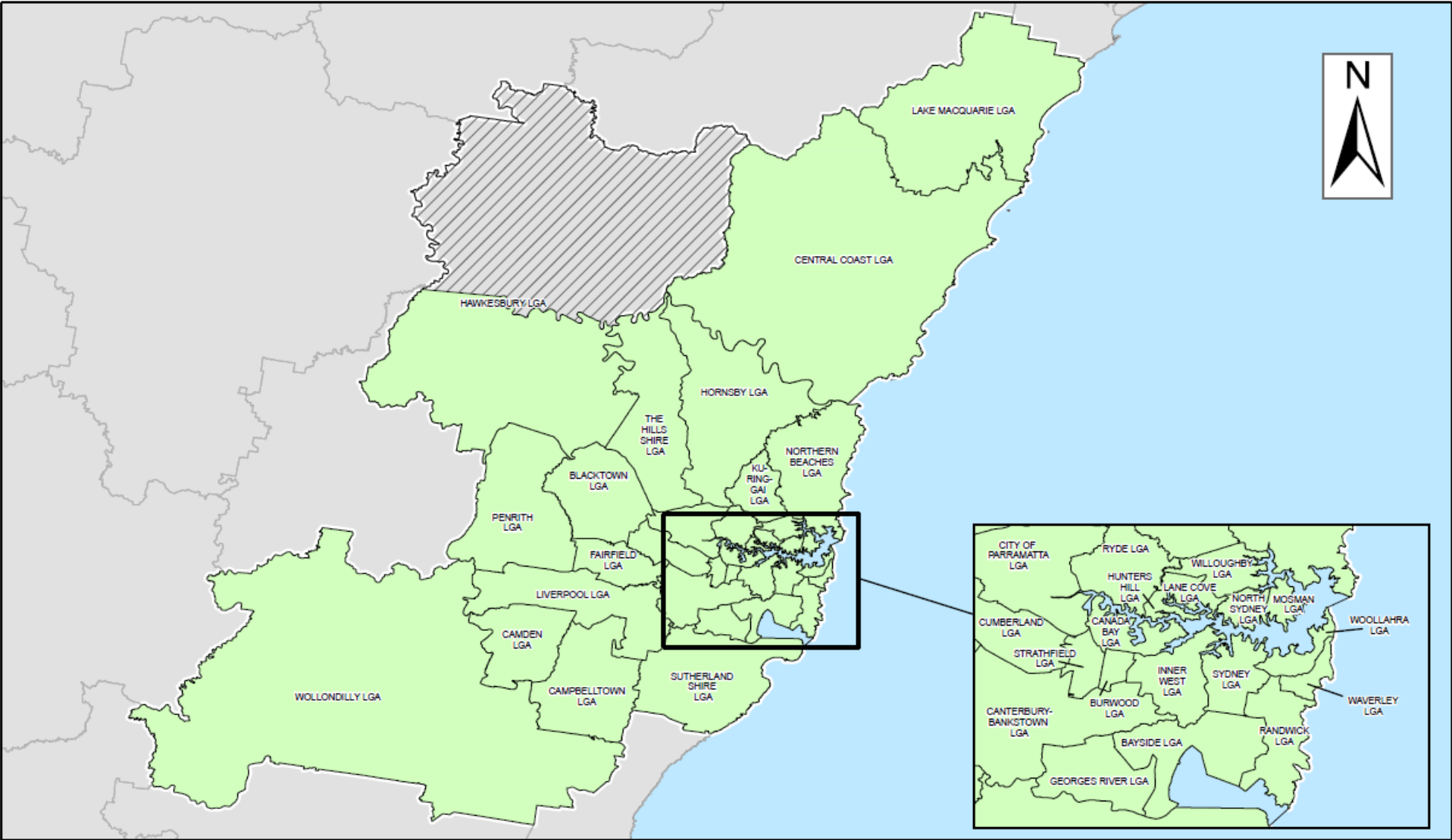
- **the Metropolitan Greenspace Program**

The program helps local councils in Greater Sydney and the Central Coast improve open spaces, parks, bushland areas, natural areas, waterway corridors and tree-lined streetscapes. It is one of the longest-running grants program in Sydney, enabling the creation of important connections in the green grid across Sydney and the Central Coast.

- **the Greener Places strategy**

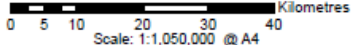
This strategy produced by the NSW Government Architect's Office guides the planning, design and delivery of green infrastructure in urban areas across the state. It provides a consistent set of targets, actions, guidance and resources to enable the delivery and ongoing health of the urban canopy, bushland and waterways

Attachment 1: LGA's to which the public bushland provisions apply



Legend

- Public Bushland LGAs
- Part of Hawkesbury LGA not included



Public Bushland Map