



New South Wales

# **Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G93/00107/PC)

KRISTINA KENEALLY, M.P.,  
Minister for Planning

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008

---

# Contents

	Page
<b>Part 1 Preliminary</b>	
1.1 Name of Plan	4
1.2 Aims of Plan	4
1.3 Land to which Plan applies	4
1.4 Definitions	4
1.5 Notes	5
1.6 Consent authority	5
1.7 Maps	5
1.8 Repeal of other local planning instruments applying to land	5
Provision about development applications made but not determined	6
1.9 Application of SEPPs and REPs	6
1.9A Suspension of covenants, agreements and instruments	6
<b>Part 2 Permitted or prohibited development</b>	
2.1 Land use zones	8
2.2 Zoning of land to which Plan applies	8
2.3 Zone objectives and land use table	8
2.4 Unzoned land	9
2.5 Additional permitted uses for particular land	9
2.6 Subdivision—consent requirements	9
Temporary use of land	10
<b>Land Use Table</b>	11
<b>Part 3 Exempt and complying development</b>	
3.1 Exempt development	20
3.2 Complying development	21
3.3 Environmentally sensitive areas excluded	23
<b>Part 4 Principal development standards</b>	
4.1 Minimum subdivision lot size	25
4.2 Rural subdivision	25
4.2A Lot sizes for dwelling houses and dual occupancies	25
4.3 Height of buildings	25
4.4 Floor space ratio	25
4.5 Calculation of floor space ratio and site area	25
4.6 Exceptions to development standards	26

		Page
<b>Part 5</b>	<b>Miscellaneous provisions</b>	
5.1	Relevant acquisition authority	28
5.1A	Development on land intended to be acquired for a public purpose	29
5.2	Classification and reclassification of public land	29
5.3	Development near zone boundaries	30
5.4	Controls relating to miscellaneous permissible uses	31
5.5	Development within the coastal zone	32
5.6	Architectural roof features	34
5.7	Development below mean high water mark	34
5.8	Conversion of fire alarms	34
5.9	Preservation of trees or vegetation	35
5.10	Heritage conservation	36
5.11	Bush fire hazard reduction	40
5.12	Infrastructure development and use of existing buildings of the Crown	40
<b>Part 6</b>	<b>Urban release areas</b>	
6.1	Arrangements for designated State public infrastructure	41
6.2	Public utility infrastructure	41
6.3	Development control plan	42
6.4	Relationship between Part and remainder of Plan	43
6.5	Thrumster Town Centre	43
6.6	Koala habitat	43
6.7	Dual reticulation of water	44
<b>Part 7</b>	<b>Additional local provisions</b>	
7.1	Acid sulfate soils	45
7.2	Flood planning land	46
7.3	Development in flight paths	48
7.4	Development in areas subject to potentially excessive noise	48
7.5	Earthworks	49
<b>Schedule 1</b>	<b>Additional permitted uses</b>	50
<b>Schedule 2</b>	<b>Exempt development</b>	51
<b>Schedule 3</b>	<b>Complying development</b>	78
<b>Schedule 4</b>	<b>Classification and reclassification of public land</b>	90
<b>Schedule 5</b>	<b>Environmental heritage</b>	91
<b>Dictionary</b>		92

## **Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008**

under the

Environmental Planning and Assessment Act 1979

### **Part 1 Preliminary**

#### **1.1 Name of Plan**

This Plan is *Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008*.

#### **1.2 Aims of Plan**

- (1) This Plan aims to make local environmental planning provisions for particular land in Port Macquarie-Hastings known as Area 13 Thrumster.
- (2) The particular aims of this Plan are as follows:
  - (a) to provide an integrated land use and movement plan for a new community of approximately 11,000 people,
  - (b) to address the management of hazards to urban development,
  - (c) to identify and propose appropriate protection for features of environmental, cultural or visual importance,
  - (d) to take into consideration the requirements of the Koala Plan of Management.

#### **1.3 Land to which Plan applies**

- (1) This Plan applies to the land identified on the Land Application Map.
- (2) Despite clause (1), this Plan does not apply to land identified on the Land Application Map as “Deferred matter”, being land that is excluded from this Plan under section 68 (5) or 70 (4) of the Act.

#### **1.4 Definitions**

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

### **1.5 Notes**

Notes in this Plan are provided for guidance and do not form part of this Plan.

### **1.6 Consent authority**

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

### **1.7 Maps**

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.

**Note.** The maps adopted by this Plan are to be made available on the official NSW legislation website in connection with this Plan. Requirements relating to the maps are set out in the documents entitled *Standard technical requirements for LEP maps* and *Standard requirements for LEP GIS data* which are available on the Department of Planning's website.

### **1.8 Repeal of other local planning instruments applying to land**

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 1.9 2008

Part 1 Preliminary

---

### 1.8A Provision about development applications made but not determined

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined under this Plan.

### 1.9 Application of SEPPs and REPs

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

**Note.** Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

*State Environmental Planning Policy No 1—Development Standards*

*State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* (clauses 6–10, and Parts 3 and 4)

*State Environmental Planning Policy No 60—Exempt and Complying Development*

**Note.** Schedule 2 to SEPP 4 already excepts the operation of clauses 6–10 in this area. This listing serves as a reminder.

### 1.9A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

- (2) This clause does not apply:

- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
- (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
- (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
- (d) to any trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or

- (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 2.1 2008

Part 2 Permitted or prohibited development

---

## **Part 2 Permitted or prohibited development**

### **2.1 Land use zones**

The land use zones under this Plan are as follows:

#### **Residential Zones**

R1 General Residential

R5 Large Lot Residential

#### **Business Zones**

B1 Neighbourhood Centre

B2 Local Centre

B4 Mixed Use

B5 Business Development

#### **Industrial Zones**

IN2 Light Industrial

#### **Recreation Zones**

RE1 Public Recreation

#### **Environment Protection Zones**

E2 Environmental Conservation

E3 Environmental Management

### **2.2 Zoning of land to which Plan applies**

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

### **2.3 Zone objectives and land use table**

- (1) The Table at the end of this Part specifies for each zone:
  - (a) the objectives for development, and
  - (b) development that may be carried out without consent, and
  - (c) development that may be carried out only with consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and



- 
- (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

**Notes.**

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.
- 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development.

**2.4 Unzoned land**

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
  - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
  - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

**2.5 Additional permitted uses for particular land**

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
  - (a) with consent, or
  - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**2.6 Subdivision—consent requirements**

- (1) Land to which this Plan applies may be subdivided, but only with consent.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Clause 2.6

Part 2

Permitted or prohibited development

---

- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
- (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create:
    - (i) additional lots or the opportunity for additional dwellings, or
    - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

**Note.** If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

### 2.6A Demolition requires consent

The demolition of a building or work may be carried out only with consent.

**Note.** If the demolition of a building or work is identified in this Plan as exempt development, the Act enables it to be carried out without consent.

### 2.6B Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other relevant environmental planning instruments, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

- 
- (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

## **Land Use Table**

### **Zone R1 General Residential**

#### **1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To enable additional land uses for the broader wellbeing of the community if there is no adverse effect on the amenity of existing or proposed residential development.

#### **2 Permitted without consent**

Home-based child care; Home occupations

#### **3 Permitted with consent**

Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Car parks; Caravan parks; Cemeteries; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health services facilities; Home businesses; Home industries; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Residential flat buildings; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Tourist and visitor accommodation; Water recreation structures

#### **4 Prohibited**

Any development not specified in item 2 or 3

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 2.6 2008

Part 2 Land Use Table

---

### **Zone R5 Large Lot Residential**

#### **1 Objectives of zone**

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

#### **2 Permitted without consent**

Home-based child care; Home occupations

#### **3 Permitted with consent**

Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Caravan parks; Cemeteries; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Extensive agriculture; Farm buildings; Group homes; Health services facilities; Home businesses; Home industries; Information and education facilities; Places of public worship; Recreation areas; Roads; Veterinary hospitals; Water recreation structures

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone B1 Neighbourhood Centre**

#### **1 Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To ensure that new commercial buildings make a positive contribution to the streetscape and contribute to a safe public environment.
- To provide a focal point for the neighbourhood community.

- 
- To allow for residential development that contributes to the economic and social vitality of the neighbourhood centre and does not preclude the provision of retail, business and convenience uses at street level.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Amusement centres; Building identification signs; Business identification signs; Business premises; Car parks; Charter and tourism boating facilities; Child care centres; Community facilities; Educational establishments; Environmental facilities; Environmental protection works; Group homes; Home businesses; Information and education facilities; Neighbourhood shops; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Retail premises (other than bulky goods premises, timber and building supplies and vehicle sales or hire premises); Roads; Service stations; Shop top housing; Veterinary hospitals; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B2 Local Centre**

**1 Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new commercial buildings make a positive contribution to the streetscape and contribute to a safe public environment.
- To ensure that residential development does not preclude the provision of active uses at street level.

**2 Permitted without consent**

Home-based child care; Home occupations

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 2.6 2008

Part 2 Land Use Table

---

### **3 Permitted with consent**

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Charter and tourism boating facilities; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Function centres; Funeral chapels; Funeral homes; Health services facilities; Home businesses; Hostels; Information and education facilities; Nightclubs; Office premises; Passenger transport facilities; Places of public worship; Port facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Research stations; Residential flat buildings; Retail premises; Roads; Seniors housing; Service stations; Shop top housing; Tourist and visitor accommodation; Veterinary hospitals; Water recreation structures

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone B4 Mixed Use**

### **1 Objectives of zone**

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To ensure that new commercial buildings make a positive contribution to the streetscape and contribute to a safe public environment.
- To encourage and effectively manage a diverse and compatible range of activities including:
  - (a) commercial and retail development, and
  - (b) cultural and entertainment facilities, and
  - (c) tourism, leisure and recreation facilities, and
  - (d) social, education and health services, and
  - (e) higher density residential development.
- To create opportunities to improve the public domain and pedestrian links in this zone.

### **2 Permitted without consent**

Home-based child care; Home occupations

---

### **3 Permitted with consent**

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Charter and tourism boating facilities; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Function centres; Funeral chapels; Funeral homes; Health services facilities; Home businesses; Hostels; Hotel or motel accommodation; Industrial retail outlets; Information and education facilities; Light industries; Multi dwelling housing; Nightclubs; Office premises; Passenger transport facilities; Places of public worship; Port facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Residential flat buildings; Retail premises; Roads; Self-storage units; Seniors housing; Shop top housing; Tourist and visitor accommodation; Veterinary hospitals; Warehouse or distribution centres; Water recreation structures; Wholesale supplies

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone B5 Business Development**

### **1 Objectives of zone**

- To enable a mix of business and warehouse uses, and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To provide for a wide range of employment-generating development.
- To enable a broad range of other uses that contribute to, and complement, the provision of employment-generating development.

### **2 Permitted without consent**

Home-based child care; Home occupations

### **3 Permitted with consent**

Amusement centres; Building identification signs; Business identification signs; Business premises; Car parks; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Function centres; Funeral chapels; Funeral homes; Health services facilities; Heliports; Home businesses; Industrial retail outlets;

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 2.6 2008

Part 2 Land Use Table

---

Information and education facilities; Light industries; Mortuaries; Multi dwelling housing; Nightclubs; Office premises; Passenger transport facilities; Places of public worship; Port facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential flat buildings; Retail premises; Roads; Sewage reticulation systems; Shop top housing; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource transfer stations; Water recreation structures; Wholesale supplies

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone IN2 Light Industrial**

### **1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To allow recreational uses which require a large area or additional parking that cannot be provided in other zones.
- To enable other land uses that provide facilities or services to meet the day-to-day needs of workers in the area.
- To protect land identified for industrial use by not allowing other land uses which might unduly constrain industrial use.
- To provide for industrial uses while avoiding adverse environmental effects on land, water and air.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Amusement centres; Boat repair facilities; Building identification signs; Business identification signs; Business premises; Car parks; Charter and tourism boating facilities; Child care centres; Community facilities; Depots; Educational establishments; Electricity generating works; Environmental facilities; Environmental protection works; Food and drink premises; Funeral chapels; Funeral homes; Helipads; Heliports;



---

Industrial retail outlets; Kiosks; Landscape and garden supplies; Light industries; Medical centres; Mortuaries; Neighbourhood shops; Port facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Research stations; Restricted premises; Roads; Rural supplies; Service stations; Sex services premises; Storage premises; Timber and building supplies; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone RE1 Public Recreation**

**1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Building identification signs; Business identification signs; Car parks, Caravan parks; Cemeteries; Child care centres; Community facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Information and education facilities; Kiosks; Marinas; Port facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor), Recreation facilities (major); Recreation facilities (outdoor); Roads; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 2.6 2008

Part 2 Land Use Table

---

### **Zone E2 Environmental Conservation**

#### **1 Objectives of zone**

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

#### **2 Permitted without consent**

Nil

#### **3 Permitted with consent**

Building identification signs; Business identification signs; Environmental facilities; Environmental protection works; Recreation areas; Research stations; Roads

#### **4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

### **Zone E3 Environmental Management**

#### **1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

#### **2 Permitted without consent**

Home occupations

#### **3 Permitted with consent**

Building identification signs; Business identification signs; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Group homes; Home-based child care; Home businesses; Horticulture; Information and education facilities; Places of public worship; Recreation areas; Research stations; Roads; Water recreation structures

**4 Prohibited**

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 3.1 2008

Part 3 Exempt and complying development

---

### Part 3 Exempt and complying development

#### 3.1 Exempt development

**Note.** Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
  - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
  - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
  - (3) To be exempt development, the development:
    - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
    - (c) must not be designated development, and
    - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
    - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3).
  - (3A) To be exempt development, the development must also:
    - (a) be consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that applies to the land, and
    - (b) be located at least 1 metre from a registered easement, sewer main or water main, and
    - (c) not require a tree to be removed if consent would be required under clause 5.9, and
    - (d) not be carried out on land that has been used for any of the following purposes unless notice of completion of remediation

---

work for the proposed use has been given to the consent authority in accordance with *State Environmental Planning Policy No 55—Remediation of Land*:

- (i) asbestos or asbestos products,
  - (ii) extractive industries,
  - (iii) intensive livestock agriculture,
  - (iv) manufacturing of chemicals,
  - (v) mining,
  - (vi) service stations,
  - (vii) sheep or cattle dips,
  - (viii) waste disposal land fill operations,
  - (ix) waste management facilities, and
- (e) not be carried out on a heritage item, and
- (f) not be carried out on land that is subject to subsidence, slip or erosion.
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
- (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (4A) A heading to an item in Schedule 2 is taken to be part of that Schedule.

### 3.2 Complying development

**Note.** Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
- (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
- (c) the development is designated development, or
- (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
- (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 3.2 2008

Part 3 Exempt and complying development

---

- species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
- (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
- (a) the development standards specified in relation to that development, and
- (b) the requirements of this Part,
- is complying development.
- Note.** See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
- (3) To be complying development, the development must:
- (a) be permissible, with consent, in the zone in which it is carried out, and
- (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
- (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (3A) To be complying development, the development must also:
- (a) be consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection* that applies to the land, and
- (b) be located at least 1 metre from a registered easement, sewer main or water main, and
- (c) not require a tree to be removed if consent would be required under clause 5.9, other than for an exotic tree under 4 metres in height, and
- (d) not be carried out on land that has been used for any of the following purposes unless notice of completion of remediation work for the proposed use has been given to the consent authority in accordance with *State Environmental Planning Policy No 55—Remediation of Land*:
- (i) asbestos or asbestos products,
- (ii) extractive industries,
- (iii) intensive livestock agriculture,
- (iv) manufacturing of chemicals,

- 
- (v) mining,
  - (vi) service stations,
  - (vii) sheep or cattle dips,
  - (viii) waste disposal land fill operations,
  - (ix) waste management facilities, and
  - (e) not be carried out on land that is subject to subsidence, slip or erosion.
- (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.
- (4A) A heading to an item in Schedule 3 is taken to be part of that Schedule.

### 3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:  
***environmentally sensitive area for exempt or complying development*** means any of the following:
- (a) the coastal waters of the State,
  - (b) a coastal lake,
  - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
  - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
  - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
  - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
  - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
  - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
  - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 3.3 2008

Part 3 Exempt and complying development

---

- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.



---

## **Part 4 Principal development standards**

### **4.1 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes are compatible with local environmental values and constraints,
  - (b) to facilitate efficient use of land resources for residential and other human purposes.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (4A) This clause does not apply in relation to the subdivision into individual lots in conjunction with, or at a time after, an approval for attached dwellings, dual occupancies, semi-detached dwellings or multi dwelling housing development on land in Zone R1 General Residential.

### **4.2 Rural subdivision**

(When this Plan was made this clause was blank)

### **4.2A Lot sizes for dwelling houses and dual occupancies**

Consent may be granted for the erection of a dwelling house or dual occupancy on land in a residential zone only if the area of the land is at least the minimum required for subdivision under clause 4.1.

### **4.3 Height of buildings**

(When this Plan was made this clause was blank)

### **4.4 Floor space ratio**

(When this Plan was made this clause was blank)

### **4.5 Calculation of floor space ratio and site area**

(When this Plan was made this clause was blank)

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 4.6 2008

Part 4 Principal development standards

---

### 4.6 Exceptions to development standards

- (1) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
    - (ia) if the development is on land that comprises, or on which there is, an item of State heritage significance that is listed on the State Heritage Register under the *Heritage Act 1977* or a heritage item listed in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*—the development retains the heritage significance of the item, and
  - (b) the concurrence of the Director-General has been obtained.

- 
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Consent must not be granted under this clause for a subdivision of land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4 if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
  - (c) clause 5.4.
- (8A) This clause does not allow consent to be granted for development that would contravene clause 6.1, 6.2, 6.3 or 6.5.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Clause 5.1

Part 5

Miscellaneous provisions

---

## Part 5 Miscellaneous provisions

### 5.1 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note.** If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted under section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>
Zone R1 General Residential and marked "Classified road"	Roads and Traffic Authority
Zone R1 General Residential and marked "School"	The Minister for Education and Training

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

---

**5.1A Development on land intended to be acquired for a public purpose**

- (1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.
- (2) This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the relevant authority of the State specified for the land in clause 5.1.
- (3) Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 2 of the Table.

<b>Column 1</b>	<b>Column 2</b>
<b>Land</b>	<b>Development</b>
Zone R1 General Residential and marked "Classified road"	Demolition, Earthworks, Environmental protection works
Zone R1 General Residential and marked "School"	Demolition, Earthworks, Environmental protection works
Zone RE1 Public Recreation and marked "Local open space"	Demolition, Earthworks, Environmental protection works

**5.2 Classification and reclassification of public land**

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as "operational land" or "community land" in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.  
**Note.** Under the *Local Government Act 1993*, "public land" is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Clause 5.3

Part 5

Miscellaneous provisions

---

- (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
  - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
  - (b) any reservations that except land out of the Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

**Note.** In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4.

**5.3 Development near zone boundaries**

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.
- (3) This clause does not apply to:
  - (a) land zoned RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management or W1 Natural Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

- 
- (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

#### **5.4 Controls relating to miscellaneous permissible uses**

(1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 60 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the light industry must not involve the use of more than 60 square metres of floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:

- (a) 30% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or

- (b) 400 square metres,

whichever is the lesser.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 20 square metres.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan

Clause 5.5

2008

Part 5

Miscellaneous provisions

---

**(7) Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.

**(8) Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 10 square metres.

**(9) Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 35% of the total floor area of both the self-contained dwelling and the principal dwelling.

**5.5 Development within the coastal zone**

(1) The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the NSW Coastal Policy, and in particular to:
  - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
  - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
  - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
  - (iv) recognise and accommodate coastal processes and climate change, and
  - (v) protect amenity and scenic quality, and
  - (vi) protect and preserve rock platforms, beach environments and beach amenity, and
  - (vii) protect and preserve native coastal vegetation, and
  - (viii) protect and preserve the marine environment, and



- 
- (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
    - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
    - (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
  - (e) how biodiversity and ecosystems, including:
    - (i) native coastal vegetation and existing wildlife corridors, and
    - (ii) rock platforms, and
    - (iii) water quality of coastal waterbodies, and

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Clause 5.6

Part 5

Miscellaneous provisions

---

- (iv) native fauna and native flora, and their habitats, can be conserved, and
  - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

**5.6 Architectural roof features**

(When this Plan was made this clause was blank)

**5.7 Development below mean high water mark**

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

**5.8 Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
  - (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to

- 
- connection with the alarm monitoring system of a private service provider,
- (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of:
- (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:
- private service provider*** means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

#### 5.9 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.
- Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
- (a) development consent, or
  - (b) a permit granted by the Council.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 5.10 2008

Part 5 Miscellaneous provisions

---

- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
  - (a) that is or forms part of a heritage item, or
  - (b) that is within a heritage conservation area.

**Note.** As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
  - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

### 5.10 Heritage conservation

**Note.** Heritage items, heritage conservation areas and archaeological sites (if any) are shown on the Heritage Map. The location and nature of any such item, area or site is also described in Schedule 5.

**(1) Objectives**

The objectives of this clause are:

- (a) to conserve the environmental heritage of Area 13 Thrumster, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

**(2) Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

**(3) When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and

- (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

**(4) Effect on heritage significance**

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

**(5) Heritage impact assessment**

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

**(6) Heritage conservation management plans**

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

**(7) Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

**(8) Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

**(9) Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

**(10) Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 5.11 2008

Part 5 Miscellaneous provisions

---

- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### 5.11 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

**Note.** The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

### 5.12 Infrastructure development and use of existing buildings of the Crown

- (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.



---

## **Part 6 Urban release areas**

### **6.1 Arrangements for designated State public infrastructure**

- (1) This clause applies to land shown diagonally hatched in an urban release area, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (3) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subclause (3) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a subdivision previously consented to in accordance with this clause, or
  - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.

### **6.2 Public utility infrastructure**

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

**6.3 Development control plan**

- (1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan including specific controls has been prepared for the land.
- (2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following:
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to any of the following development:
  - (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if the lot that is proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,

- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

#### **6.4 Relationship between Part and remainder of Plan**

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

#### **6.5 Thrumster Town Centre**

- (1) This clause applies to the land shown on the Urban Release Areas Map as “Thrumster Town Centre”.
- (2) The objectives of this clause are:
  - (a) to limit the scale of certain types of retail development in the Thrumster Town Centre, and
  - (b) to ensure that development does not conflict with the hierarchy of retail centres in the Port Macquarie-Hastings area, and
  - (c) to maintain primacy of the Port Macquarie Town Centre.
- (3) The Council must not consent to an application for the development of land to which this clause applies:
  - (a) for the purposes of shops, neighbourhood shops or take away food and drink premises (but not including kiosks), if the approval would result in the gross floor area of all such uses on land in the Thrumster Town Centre exceeding an area of 7,500 square metres, or
  - (b) for the purposes of bulky goods premises if:
    - (i) the approval would result in the gross floor area of all bulky goods premises in the Thrumster Town Centre exceeding 5,000 square metres, or
    - (ii) the gross floor area of the particular bulky goods premises has a floor area of less than 250 square metres.

#### **6.6 Koala habitat**

- (1) This clause applies to land shown on the Koala Habitat Map as “Core Koala Habitat”.
- (2) The objective of this clause is to ensure development is designed to retain preferred koala food trees in the Core Koala Habitat.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Clause 6.7

Part 6

Urban release areas

---

- (3) Development of land in the Core Koala Habitat must ensure:
  - (a) in relation to areas shown on the Koala Habitat Map as “High Use”, the retention of all preferred koala food trees more than 150 millimetres in diameter at breast height over bark, and
  - (b) in relation to areas shown on the Koala Habitat Map as “Medium Use”, the retention of all preferred koala food trees more than 250 millimetres in diameter at breast height over bark.
- (4) The Council must not consent to a subdivision of land to which this clause applies unless it is satisfied that each lot that would be created by the subdivision will contain a sufficient building envelope to enable future development of the lot to comply with subclause (3).
- (5) In this clause, *preferred koala food trees* are those species of trees identified in the Koala Plan of Management.

**6.7 Dual reticulation of water**

- (1) The objective of this clause is to provide for the implementation of the Council’s effluent management strategy for Area 13 Thrumster.
- (2) Development of land in Area 13 Thrumster must include a provision for dual reticulated supply of water.
- (3) Development must be designed to ensure only reclaimed water is used:
  - (a) to supply all toilet cisterns, and
  - (b) to supply laundry cold water feed, and
  - (c) for outdoor use.
- (4) Despite subclause (3), rainwater tanks may supply laundry cold water feed.
- (5) Development consent may be granted to development that does not include the provision for dual reticulated supply of water if the consent authority is satisfied:
  - (a) it is for additions or alterations to existing development and it would be unreasonable to require dual reticulation, or
  - (b) it is in an area that is not proposed to be serviced by dual reticulation.

---

## Part 7 Additional local provisions

### 7.1 Acid sulfate soils

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works beyond 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered beyond 1 metre below the natural ground surface.
4	Works beyond 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered beyond 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this clause for the carrying out of works unless:
  - (a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority, and
  - (b) a copy of the plan and a copy of the development application have been provided to the Director-General of the Department of Environment and Climate Change and the consent authority has considered any comments of the Director-General made within 21 days after those copies were provided to the Director-General.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
Clause 7.2 2008

Part 7 Additional local provisions

---

- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:
  - (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan need not be carried out for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
  - (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine management work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
  - (a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or
  - (b) the works are not likely to lower the watertable.

**7.2 Flood planning land**

- (1) The objectives of this clause are:
  - (a) to maintain the existing flood regime and flow conveyance capacity, and
  - (b) to enable safe occupation and evacuation of land subject to flooding, and
  - (c) to avoid significant adverse impacts on flood behaviour, and

- 
- (d) to avoid significant adverse effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river banks or watercourses, and
  - (e) to limit uses to those compatible with flow conveyance function and flood hazard.
- (2) This clause applies to land shown as “Flood Planning Land” on the Flood Planning Area Map and to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event.
  - (3) Development consent is required for any development on land to which this clause applies.
  - (4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development will not:
    - (a) adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, or
    - (b) significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain, or
    - (c) affect the safe occupation of the land to which this clause applies, or
    - (d) significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, or
    - (e) be likely to result in unsustainable social and economic costs to the community as a consequence of flooding, or
    - (f) be incompatible with the flow conveyance function of the floodway, or
    - (g) cause or increase a flood hazard in the floodway.
  - (5) Before granting consent to development for a sensitive land use, the consent authority must consider the suitability of the development having regard to the risk of flooding on that land to:
    - (a) the safety of persons, and
    - (b) emergency response management needs.

- (6) In this clause:  
***sensitive land use*** means any of the following land uses proposed to be carried out on the land marked “Sensitive Land Uses” on the Flood Planning Area Map:
- (a) emergency services facilities,
  - (b) group homes,
  - (c) health services facilities,
  - (d) residential care facilities,
  - (e) seniors housing.

**7.3 Development in flight paths**

- (1) The objective of this clause is to maintain safe separation between buildings and structures and the airspace required by aircraft activity associated with Port Macquarie Airport.
- (2) This clause applies to land shown on the Obstacle Limitation Surface Map as the “Obstacle Limitation Surface”.
- (3) Development consent must not be granted to erect a building on land to which this clause applies if the proposed height, to Reduced Level, exceeds the height limit shown for that land on the Obstacle Limitation Surface Map.

**7.4 Development in areas subject to potentially excessive noise**

- (1) The objective of this clause is to ensure that development for residential or tourist purposes, or for any other purpose involving regular human occupation, on land subject to significant exposure to noise (including aircraft and road noise) incorporates appropriate mitigation measures.
- (2) This clause applies to the development of land identified on the Acoustic Controls Map as “Land subject to acoustic controls”.
- (3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied:
  - (a) that occupants of the development will not be subject to excessive noise, and
  - (b) that appropriate noise attenuation measures have been incorporated into the development to mitigate that noise to an acceptable level.



- 
- (4) For the purpose of subclause (3), assessment of appropriate measures include:
- (a) in relation to aircraft noise assessment—in accordance with clause 3.2.2 of AS 2021–2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*, and
  - (b) in relation to traffic noise assessment—in accordance with NSW EPA *Environmental Criteria for Road Traffic Noise* (May 1999).
- (5) This clause does not apply if the applicant has notified the consent authority about the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that existing noise mitigation measures are satisfactory in relation to the proposed development.

#### **7.5 Earthworks**

- (1) The objective of this clause is to ensure that any land excavation or filling work will not have a detrimental impact on environmental functions and processes, neighbouring uses, or cultural or heritage items and features.
- (2) Development consent is required for earthworks.
- (3) Development consent for earthworks may be granted only if the consent authority is satisfied that:
- (a) the excavation or fill is required for the reasonable economic use of the land on which it takes place or for the provision of utility services, and
  - (b) there would be no adverse impact on:
    - (i) a waterbody, or
    - (ii) private or public property, or
    - (iii) ground water quality and resources, or
    - (iv) stormwater drainage, or
    - (v) flooding, or
    - (vi) soil stability for the subject and adjoining properties, or
    - (vii) future land use, or
    - (viii) known or potential Aboriginal objects or relics.
- (4) Consent is not required under this subclause if the consent authority is of the opinion that the excavation or filling of land is of a minor nature.

## **2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 1 Additional permitted uses

---

### **Schedule 1 Additional permitted uses**

(Clause 2.5)

#### **1 Use of certain land at corner of Pacific and Oxley Highways, Thrumster**

- (1) This clause applies to the land at corner of the Pacific and Oxley Highways, Thrumster, being Lot 1, DP 22193, shown on the Land Zoning Map as “APU1”.
- (2) Development for the purpose of hotel or motel accommodation is permitted with consent, but only if the development is:
  - (a) designed to incorporate acoustic measures that ensure acceptable internal noise levels will be achieved, and
  - (b) designed and landscaped to ensure the development does not have a significant adverse visual impact when viewed from a public place.

#### **2 Use of certain land at 1002 Oxley Highway, Thrumster**

- (1) This clause applies to the land at 1002 Oxley Highway, Thrumster, being Lot 3, DP 1125824, shown on the Land Zoning Map as “APU2”.
- (2) Development is permitted with consent, but only if the development is ancillary to the pub and restaurant located on adjoining land in Zone B2 Local Centre.

---

## Schedule 2 Exempt development

(Clause 3.1)

**Note 1.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy in an exempt development code. The Policy will have State-wide application and commences on 27 February 2009.

**Note 2.** Exempt development may be carried out without the need for development consent under the *Environmental Planning and Assessment Act 1979*. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

### Access ramps

- (1) Maximum grade—1:14 (vertical:horizontal).
- (2) Maximum height—1m above ground level (existing).
- (3) Must be structurally adequate for the intended purpose and comply with AS 1428.1—2001, *Design for access and mobility, Part 1: General requirements for access—New building work*.
- (4) Must be located at least 900mm from each property boundary.
- (5) Must not encroach on Council approved car parking on site.
- (6) Must not encroach on any watercourse or sewer surcharge gully.
- (7) If located on bush fire prone land, must be constructed of non-combustible material.

### Aerials and antennae (other than satellite dishes)

- (1) Must be for domestic use only.
- (2) Maximum height—6m.
- (3) Only 1 per residential building.
- (4) Must be located behind the building line.
- (5) Must be installed to manufacturer's specifications.
- (6) Must not reduce the structural integrity of the building or require structural alterations.
- (7) Must be located clear of any powerlines or other overhead services in accordance with the relevant utility supplier's requirements.

### Air conditioning units for dwelling houses

- (1) Must be located at least 900mm from each property boundary.
- (2) Must be located on ground level (existing) against the side or rear walls of a dwelling house.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (3) Must not be located on any part of the dwelling that is visible from the street.
- (4) Must not involve work that reduces the structural integrity of the building.
- (5) Must not be audible inside the interior of any adjoining dwelling between 10.00 pm and 7.00 am on weekdays, and between 10.00 pm and 8.00 am on Saturdays, Sundays and public holidays.
- (6) At all other times, noise level must not exceed 5dBA above ambient background noise level, measured at the property boundary.

### **Awnings, canopies, covered pergolas and storm blinds (including sail awnings) for dwellings**

- (1) Maximum height—3m above ground level (existing).
- (2) Maximum length of any side—7m.
- (3) Maximum aggregate area—20m<sup>2</sup>.
- (4) Must be located behind the building line.
- (5) Must be located at least 1m from each property boundary.
- (6) If located on bush fire prone land, must be constructed of non-combustible material.
- (7) Must be constructed from non reflective material.

### **Barbecues (fixed)**

- (1) Maximum height—1.8m above ground level (existing).
- (2) Maximum area of base—4m<sup>2</sup>.
- (3) Must be located at least 1m from each property boundary.
- (4) Must be located behind the building line.
- (5) Must be located at least 6m from any window or other ventilation opening in a building on that or adjacent land.
- (6) Must not encroach on any watercourse.

### **Bed and breakfast accommodation**

- (1) Maximum floor area of dwelling—300m<sup>2</sup>.
- (2) Maximum bedrooms—1.
- (3) Must not involve the extension or enlargement of an existing dwelling.

**Building alterations or renovations (dwelling houses)**

- (1) Must be minor alterations or renovations to either the interior or exterior of an existing building that will not adversely affect the structural strength or stability of the building, such as:
  - (a) painting, plastering, cement rendering or the attachment of fittings, and
  - (b) replacement of doors, walls, ceiling or floor linings, and
  - (c) replacement of deteriorated frame members with equivalent or improved quality materials, and
  - (d) kitchen renovations, and
  - (e) bathroom renovations, and
  - (f) installation of built-in cupboards and wardrobes.
- (2) Demolition work must comply with AS 2601—2001, *Demolition of structures*.
- (3) Work involving lead paint removal must not cause lead contamination of air or ground.
- (4) For exterior alterations:
  - (a) underpinning must not change the height of the building, and
  - (b) re-cladding of roofs or walls must be with material similar to that of existing roof or wall, and
  - (c) existing materials must be replaced with similar materials, and
  - (d) there must not be more than a 10% alteration to the location or size of existing windows or door openings.
- (5) Interior alterations:
  - (a) must not provide any additional floor space, and
  - (b) must not change window arrangements for light and ventilation needs or reduce doorway sizes.
- (6) For the installation of solid fuel heaters—design and installation must comply with AS/NZS 4013:1999, *Domestic solid fuel burning appliances—Method for determination of flue gas emissions*.

**Building alterations or repairs (non residential buildings)**

- (1) Must be minor maintenance or repairs to either the interior or exterior of an existing building that will not adversely affect the structural strength or stability of the building, such as:
  - (a) repainting, replastering, cement rendering, recladding and attachment of fittings, and

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (b) replacement of doors, walls, ceiling or floor linings, and
  - (c) replacement of deteriorated frame members with equivalent or improved quality materials.
- (2) Must not be new building work, including façade and roof replacement, erection of new awnings or the installation of automatic teller machines.
  - (3) For recladding or painting work, existing materials must be replaced with similar materials and colours.
  - (4) Demolition work must comply with AS 2601—2001, *Demolition of structures*.
  - (5) Work involving lead paint removal must not cause lead contamination of air or ground.
  - (6) Interior alterations:
    - (a) must not provide any additional floor space, and
    - (b) must not change window arrangements for light and ventilation needs or reduce doorway sizes, and
    - (c) must not involve the carrying out of sanitary drainage work.
  - (7) Work must not compromise the fire safety of the building or affect accessibility to, or function of, its fire exits.
  - (8) Automatic teller machines:
    - (a) must be located in the business property, and
    - (b) must provide space for queuing, so there is no obstruction to free movement of pedestrians or parking spaces, and
    - (c) be adequately lit with satisfactory surveillance, and
    - (d) include a bin with adequate capacity to reduce littering.

### **Carpports**

- (1) Maximum height—2.4m above ground level (finished).
- (2) Maximum gross floor area—15m<sup>2</sup>.
- (3) Must be located behind the building line to any street frontage.
- (4) Must be set back at least 1m behind the front alignment of the dwelling and be located behind the building line.
- (5) Must be located at least 900mm from each other property boundary.
- (6) Must be at least 1m from any sewer or stormwater main, and any footing must be taken to a depth that does not impose or transfer any load onto that main.
- (7) Must be connected to an existing stormwater system.

- 
- (8) Must be constructed of new non-reflective materials.
  - (9) Must not require construction of an additional driveway access across a footpath.
  - (10) Must not be on land in a floodway.

**Cemeteries or burial grounds**

- (1) Development must only involve:
  - (a) the creation of a new grave or monument, or
  - (b) the excavation or disturbance of land for the purpose of carrying out the conservation or repair of a monument or grave marker.
- (2) Must not disturb human remains, relics in the form of grave goods or a place of Aboriginal heritage significance.

**Change of use (business premises and shops)**

- (1) Must be only for a different use of a building on land in a business zone:
  - (a) from one type of shop to another type of shop, or
  - (b) from a shop to business premises, or
  - (c) from one type of business premises to another type of business premises, or
  - (d) from business premises to a shop.
- (2) Must not provide any additional floor space.
- (3) Proposed use must be consistent with the existing classification of the building under the *Building Code of Australia*.
- (4) Proposed use must replace a current use being carried out in accordance with an original development consent to occupy the building.
- (5) Proposed use of the premises must not comprise any of the following:
  - (a) premises for the sale, storage or handling of food,
  - (b) hairdressing or beauty salons,
  - (c) premises for ear piercing, tattooing or other skin-penetrating activities,
  - (d) sex services premises,
  - (e) restricted premises.
- (6) Hours of operation of proposed use must not extend beyond existing approved hours.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (7) Proposed use must comply with any conditions of a current development consent relating to the use of the building, including car parking, loading, vehicular movement, traffic generation, waste management, hours of operation, noise and site landscaping.
- (8) Curtilage of any shop or business premises must not be used for storage or display purposes.

### **Change of use (industry or light industry to light industry)**

- (1) Must be only for a different use of a building on land in Zone IN2 Light Industrial:
  - (a) from one type of light industry to another type of light industry, or
  - (b) from an industry to a light industry.
- (2) Must not provide any additional floor space.
- (3) Maximum gross floor area—500m<sup>2</sup>.
- (4) Proposed use must be consistent with the existing classification of the building under the *Building Code of Australia*.
- (5) Proposed use must comply with any conditions of a current development consent relating to the use of the building, including car parking, loading, vehicular movement, traffic generation, waste management, hours of operation, noise and site landscaping.
- (6) Proposed use must not result in the building being used for potentially hazardous or offensive industries as defined by *State Environmental Planning Policy No 33—Hazardous and Offensive Development*.
- (7) Curtilage of any light industry must not be used for storage or display purposes.

### **Charity bins**

No more than 2 bins in any one location.

### **Clothes lines and hoists**

- (1) Maximum height—2.1m.
- (2) Must be located:
  - (a) in the rear yard, or
  - (b) no closer to the street than the front alignment of the dwelling, or
  - (c) in an approved private courtyard and be below the top of the enclosing walls or fence.



- 
- (3) If located at the side of the dwelling house, must have adequate screening from the street.
  - (4) Must be installed to manufacturer's specifications.

**Decks, verandahs and patios (attached to dwelling houses)**

- (1) Maximum roof height—2.7m above ground level (existing).
- (2) Maximum floor height—1m above ground level (existing).
- (3) Maximum floor area—15m<sup>2</sup> (in a residential zone) and 30m<sup>2</sup> (in an environment protection zone).
- (4) Must be located at least 900mm from each property boundary.
- (5) Must be located at least 1m from any sewer yard gully or watercourse.
- (6) Must be located behind the building line.
- (7) Roof water must be connected to an existing stormwater system.
- (8) Must not be erected on bush fire prone land.
- (9) If constructed of timber—must have a minimum ground clearance of 400mm and comply with AS 3660–2000, *Termite management*.
- (10) Must be lower than any adjoining doorway.

**Demolition (minor buildings)**

- (1) Maximum area of building to be demolished—25m<sup>2</sup>.
- (2) Building being demolished must be a building the erection of which is exempt development under this Plan or demolition must have been ordered by Council.
- (3) Demolition work must comply with AS 2601—2001, *Demolition of structures*.
- (4) Work involving lead paint removal must not cause lead contamination of air or ground.

**Driveways, pathways, landscaping etc (commercial or industrial)**

- (1) Ancillary commercial and industrial works external to a building, including the carrying out of landscaping, gardening, paving, driveways, pathways, drainage, filling, excavation, erosion and sedimentation control works, pollution control works or laying or repairing underground services, that are ordinarily incidental or ancillary to the use of the land, if that use:
  - (a) has been permitted by a current development consent or complying development certificate, or

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (b) is a lawful existing use (as defined in section 106 of the Act).
- (2) Maximum area for earthworks or paving—100m<sup>2</sup>.
- (3) Maximum excavation depth—0.5m below ground level (existing), excluding temporary excavations for underground services.
- (4) Maximum filling height—0.5m above ground level (existing).
- (5) Must be located at least 900mm from each property boundary.
- (6) Must not be on flood planning land.
- (7) Must not restrict stormwater flows or redirect stormwater flows to buildings or adjoining properties.
- (8) If adjoining a door, must be at a lower level than the adjoining floor.
- (9) Works must not restrict access to stormwater pipelines.
- (10) Must be at least 40m from a waterway.
- (11) Must not cover or obstruct any sewer inspection shaft, sewer inspection hole or stormwater inspection hole.
- (12) Must not be in a residential or environment protection zone.
- (13) If bollards, must be no higher than 1.2m and no wider than 0.5m in diameter.

### **Driveways, pathways, landscaping etc (non commercial or industrial)**

- (1) Ancillary residential works external to a building, including the carrying out of landscaping, gardening, paving, driveways, pathways, drainage, filling, excavation, erosion and sedimentation control works, pollution control works or laying or repairing underground services, that are ordinarily incidental or ancillary to the use of the land, if that use:
  - (a) has been permitted by a current development consent or complying development certificate, or
  - (b) is a lawful existing use (as defined in section 106 of the Act).
- (2) Maximum area for earthworks or paving—50m<sup>2</sup>.
- (3) Maximum excavation depth—0.5m below ground level (existing), excluding temporary excavations for underground services.
- (4) Maximum filling height—0.5m above ground level (existing).
- (5) Must be located at least 900mm from each property boundary.
- (6) Must not involve earthworks or structures on land shown as affected by the 1% AEP flood level on the Flood Planning Area Map.

- 
- (7) Must not restrict stormwater flows or redirect stormwater flows to dwellings, garages or adjoining properties.
  - (8) If adjoining a door, must be at a lower level than the adjoining floor.
  - (9) Must be at least 40m from a waterway.
  - (10) Must not cover or obstruct any sewer inspection shaft, sewer inspection hole or stormwater inspection hole.

**Fences (industrial zones)**

- (1) Maximum height—3m.
- (2) If constructed of chain wire, must be behind the building line.
- (3) Must not be electrified or include barbed wire if adjoining a public road or land.
- (4) Must be constructed so as not to prevent the natural flow of stormwater drainage.

**Fences (residential areas—other than swimming pool fences under the Swimming Pools Act 1992)**

- (1) Maximum height of masonry fences—1m above ground level (existing).
- (2) Maximum height of timber, metal or lightweight material fences along a frontage to a public road, the frontage to a canal or along a side boundary forward of the building line, including the building line setback from the canal—1m above ground level (existing).
- (3) Maximum height of timber, metal or lightweight material fences along a rear boundary (not including a canal frontage) or a side boundary not forward of the building line—1.8m above ground level (existing).
- (4) Must not restrict or divert the natural flow of stormwater.
- (5) Must not be electrified or include barbed wire.
- (6) If masonry or brick, must comply with AS 3700–2001, *Masonry structures*.
- (7) Must not be on flood planning land.
- (8) Must not be contrary to any development control plan, Koala Plan of Management or covenant restricting fences for koala habitat purposes.

**Filming**

- (1) May only be carried out:
  - (a) on private land, or

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (b) on Crown land.
- (2) May only be carried out on land:
  - (a) on which there is a heritage item, or
  - (b) within a heritage conservation area, or
  - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,if the filming does not involve or result in any of the following:
  - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
  - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
  - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
  - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.
- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
  - (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
  - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
  - (c) the proposed location of the filming,

- 
- (d) the proposed commencement and completion dates for the filming at the location,
  - (e) the proposed daily length of filming at the location,
  - (f) the number of persons to be involved in the filming,
  - (g) details of any temporary structures (for example, tents or marquees) to be erected at the location for the purposes of the filming,
  - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
  - (i) proposed arrangements for parking vehicles associated with the filming during the filming,
  - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
  - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
  - (l) a copy of the public liability insurance policy that covers the filming at the location,
  - (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
    - (i) an approval by the Roads and Traffic Authority for the closure of a road,
    - (ii) an approval by the Council for the erection of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
    - (iii) an approval by the Environment Protection Authority for an open fire,
    - (iv) an approval by the NSW Police Force for the discharge of firearms,
    - (v) an approval by the Department of Lands for the use of Crown land.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
- (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
- (c) the proposed commencement and completion dates for the filming at the location,
- (d) the proposed daily length of filming at the location.

### Flagpoles

- (1) Maximum height—6m above ground level (existing).
- (2) Only 1 per property.
- (3) Must not display advertising material or logos.
- (4) Must be located clear of any powerlines or other overhead services in accordance with the relevant utility supplier's requirements.
- (5) Flags must be at least 3.6m above pathway level.
- (6) Must not be erected in an environment protection zone.
- (7) Minimum setback from each property boundary—two-thirds of height.

### Letterboxes

- (1) Maximum height—1.2m.
- (2) Must comply with Australia Post guidelines on size.
- (3) Must be in front fence or a separate structure.
- (4) Must be appropriately numbered and numbering must be visible from street alignment.
- (5) Only 1 box per dwelling.
- (6) For multi dwelling housing, must be located on common property.

### Lighting (external)

- (1) Must not be for the lighting of tennis courts or sports fields.
- (2) Must not cause glare to adjoining properties or streets.
- (3) Must not cause glare to aircraft landing and taking off operations at Port Macquarie Airport.

---

**Movable dwellings (installed on an approved site)**

- (1) Must be located in a caravan park, camping ground or manufactured home estate that has the required development consent and operating approval.
- (2) Must be designed, constructed and installed in accordance with the applicable requirements of the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.
- (3) Must not be located on bush fire prone land.

**Movable dwellings (installed on other than an approved site)**

- (1) Must be:
  - (a) not more than 2 caravans, campervans or tents on any land, so long as they are not occupied for more than 2 days at a time and are not occupied for more than 60 days (in total) in any single period of 12 months and the use is not for business or commercial purposes, or
  - (b) not more than one caravan or campervan on land occupied by the owner of the caravan or campervan in connection with that owner's dwelling house, so long as it is used for habitation only by the owner or by members of the owner's household and is maintained in a safe and healthy condition, or
  - (c) a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.
- (2) Occupant must have continuous access to approved toilet, laundry and shower facilities.
- (3) Must not be located on bush fire prone land.
- (4) Must not be located on land shown as affected by the 1% AEP flood level on the Flood Planning Area Map.

**Ornamental ponds**

- (1) Maximum depth—300mm.
- (2) Maximum surface area—10m<sup>2</sup>.
- (3) Must not restrict the flow of stormwater or floodwater.
- (4) Must not direct the flow of stormwater to dwellings, garages or adjoining properties.
- (5) Must not restrict access to stormwater pipelines.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (6) Must not pose a risk to public safety.
- (7) Must be constructed so as to prevent mosquitoes breeding.

### Outbuildings

- (1) Cabanas, garden sheds, gazebos, green houses, summer houses, tool sheds, and the like must comply with the following:
  - (a) maximum area—25m<sup>2</sup> in an environment protection zone and 10m<sup>2</sup> in a residential zone,
  - (b) maximum height—2.4m above ground level (existing) for flat roof structures or 3.5m for structures with a pitched roof,
  - (c) only 1 of each per property,
  - (d) must be fixed down on reinforced concrete slab having a minimum thickness of 100mm,
  - (e) must be constructed of non-reflective materials,
  - (f) if the structure is roofed, stormwater must be connected to an existing stormwater drainage system,
  - (g) any excavation for structure must not be more than 600mm below ground level (existing),
  - (h) must be located in the rear yard,
  - (i) must be located at least 900mm from each property boundary,
  - (j) must not be sited under the drip line of any tree.
  - (k) must not be located in a floodway,
  - (l) must not have openings facing the side or rear boundaries,
  - (m) must not be used for commercial purposes,
  - (n) must not be a shipping container.
- (2) Children's cubby or play house and domestic play equipment at ground level must comply with the following:
  - (a) maximum height—2.1m above ground level (existing),
  - (b) maximum area—20m<sup>2</sup> in an environment protection zone and 10m<sup>2</sup> in a residential zone,
  - (c) must be located in the rear yard only (basketball rings and backboards or netball rings may be located forward of the front building line if attached to the central front face of a garage),
  - (d) must be located at least 900mm from each property boundary,
  - (e) must be installed to manufacturer's specifications,



- 
- (f) must comply with any relevant Australian Standard, including AS/NZS 4486:1997, *Playgrounds and playground equipment, Part 1: Development, installation, inspection, maintenance and operation*.
- (3) In a residential zone, animal shelters including aviaries, kennels, hutches, poultry sheds or similar buildings (other than horse stables) used to house domestic animals in association with a lawful dwelling must comply with the following:
- (a) maximum height—2.4m above ground level (existing),
  - (b) maximum area—10m<sup>2</sup>,
  - (c) must be located in accordance with Part 5 of Schedule 2 of the *Local Government (General) Regulation 2005*,
  - (d) must be located at least 900mm from each property boundary,
  - (e) must be located behind the building line,
  - (f) must be located so as not to be visible from any public road,
  - (g) must not be on any floodway or watercourse,
  - (h) only 1 per dwelling,
  - (i) must not incorporate wall of dwelling or boundary fence in sides of enclosure,
  - (j) must be located at least 5m from a door or window in an adjoining dwelling,
  - (k) must be constructed so as to avoid attracting or harbouring vermin,
  - (l) must not be used for roosters.
- (4) In an environment protection zone, animal shelters including aviaries, kennels, hutches, poultry sheds or similar buildings (other than horse stables) used to house domestic animals in association with a lawful dwelling must comply with the following:
- (a) maximum height—3.5m above ground level (existing),
  - (b) maximum area—30m<sup>2</sup> per shelter,
  - (c) must be located in accordance with Part 5 of Schedule 2 of the *Local Government (General) Regulation 2005*,
  - (d) must be located at least 5m from each property boundary,
  - (e) must not be located between the dwelling and the street alignment,
  - (f) must be located at least 40m from a named watercourse,
  - (g) must be constructed of non-reflective materials,
-

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (h) must not encroach on any watercourse,
- (i) maximum number of shelters per property—3.

### **Pergolas (unroofed) and trellises**

- (1) Maximum height—3m above ground level (existing).
- (2) Maximum area—20m<sup>2</sup> in a residential zone and 30m<sup>2</sup> in an environment protection zone.
- (3) Must be located at least 900mm from each property boundary.
- (4) Must be located behind the building line.
- (5) Must not encroach on any watercourse.
- (6) Must not have enclosing walls, but may be covered with shade cloth, open battens or lattice.
- (7) Must not be erected on bush fire prone land.

### **Privacy screens and screen enclosures**

- (1) Must be constructed of translucent materials or materials with openings (such as lattice, frosted glass, vertical louvres and the like).
- (2) For privacy screens:
  - (a) maximum height:
    - (i) if attached to a fence—2.1m
    - (ii) otherwise—2.5m.
  - (b) maximum length—10m,
  - (c) if not attached to a fence, minimum setback from side or rear boundary—500mm,
  - (d) if attached to a fence, construction must be lattice type,
  - (e) minimum setback from any dwelling (including any attached structure)—900mm.
- (3) For screen enclosures:
  - (a) maximum aggregate area—20m<sup>2</sup>,
  - (b) maximum height—3m,
  - (c) must be located behind the front setback,
  - (d) minimum setback from side and rear boundaries—900mm,
  - (e) if attached to a dwelling that is on bush fire prone land—must be constructed of non-combustible material.

---

**Rainwater tanks**

**Note.** Rainwater tanks are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Only that Policy applies from 27 February 2009.

- (1) Must not be installed or erected on land:
  - (a) that is within a heritage conservation area or within the curtilage of a heritage item, or
  - (b) that is within 40m of a perennial watercourse identified by a 1:50,000 topographic map held by the Department of Lands, or
  - (c) the surface of which has a slope greater than 18 degrees from the horizontal, or
  - (d) that is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.
- (2) Must be located:
  - (a) behind the front alignment to the street of the building to which the tank is connected (or in the case of a building on a corner block, behind both the street front and the street side alignments of the building), and
  - (b) at least 450mm from any property boundary or 900mm from any property boundary if the tank materials are flammable.
- (3) Must not be installed or erected:
  - (a) over or immediately adjacent to a water main or sewer main unless it is installed in accordance with any requirements of the public authority that has responsibility for the main, or
  - (b) over any structure or fitting used by a public authority to maintain a water main or sewer main, or
  - (c) on a footing of any building or other structure, including a retaining wall.
- (4) The installation or erection of the rainwater tank must not:
  - (a) require a tree to be removed, or
  - (b) involve the excavation of more than 1m from the existing ground level, or the filling of more than 1m above the existing ground level.
- (5) Subject to this clause, the capacity of the rainwater tank, or the combined capacity of the tanks, on a lot must not exceed 10,000L (or in the case of a tank or tanks used for an educational establishment, 25,000L).

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (6) The rainwater tank must:
- (a) be designed to capture and store roof water from gutters or downpipes on a building, and
  - (b) be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank, and
  - (c) be structurally sound, and
  - (d) be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank, and
  - (e) be assembled and installed in accordance with the manufacturer's or tank designer's specifications, and
  - (f) be installed and maintained (including any stand for the tank) in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed, and
  - (g) be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures, and
  - (h) be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water, and
  - (i) have a sign affixed to it clearly stating that the water in the tank is rainwater.
- (7) The rainwater tank must not:
- (a) collect water from a source other than gutters or downpipes on a building or a water supply service pipe, or
  - (b) exceed 3m in height above ground level, including any stand for the tank.
- (8) Any overflow from the rainwater tank must be directed into an existing stormwater system.
- (9) Any plumbing work undertaken on or for the rainwater tank that affects a water supply service pipe or a water main must be undertaken:
- (a) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
  - (b) in accordance with any requirements by the public authority for the plumbing work, and
  - (c) by a licensed plumber in accordance with the *New South Wales Code of Practice for Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

- 
- (10) Any motorised or electric pump used to draw water from the rainwater tank or to transfer water between rainwater tanks:
- (a) must not create an offensive noise, and
  - (b) in the case of a permanent electric pump, must be installed by a licensed electrician.

**Retaining walls (timber and masonry)**

- (1) Maximum height—600mm above ground level (existing).
- (2) Outer face of wall must be at least 3m from each property boundary.
- (3) Must not encroach on any watercourse.
- (4) Must not be constructed in a floodway or stormwater flow path.
- (5) Must be designed and constructed with weep holes or a drainage system to prevent backfill becoming saturated and causing a build up of water pressure behind the wall.
- (6) Must not restrict the flow of floodwater or stormwater.
- (7) Must not provide structural support to any building.
- (8) Must be structurally adequate for the intended purpose and comply with:
  - (a) AS 3700—2001, *Masonry structures*, or
  - (b) AS 3600—2001, *Concrete structures*, or
  - (c) AS/NZS 1170.0:2002, *Structural design actions—General principles*, or
  - (d) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*, or
  - (e) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, or
  - (f) AS 1170.4—2007, *Structural design actions—Earthquake actions in Australia*, or
  - (g) AS 1720.1—1997, *Timber structures—Design methods*, or
  - (h) AS 1720.2—2006, *Timber structures—Timber properties*, or
  - (i) AS 1720.4—2006, *Timber structures—Fire resistance for structural adequacy of timber members*.
- (9) Must not be erected on bush fire prone land.
- (10) Maximum width of backfill—4m.
- (11) Adequate subsoil drainage lines must be provided behind wall.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

### Roads (business usage)

Must be constructed in accordance with the Council's policy titled *Use Of Road Reserves, Footpaths And Public Places For Permanent Trading Facilities*, if applicable.

### Roof ventilators

- (1) Maximum area—0.5m<sup>2</sup>.
- (2) Must be located towards the rear of the dwelling.
- (3) If located on a roof, must be positioned below the ridge line of any elevation of the building facing the street frontage.
- (4) Colour must blend with existing roof colour.
- (5) Associated work must not reduce the structural integrity of the building or involve structural alterations.

### Satellite TV dishes

**Note.** Satellite TV dishes are exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Only that Policy applies from 27 February 2009.

- (1) Must not be installed or erected on land within a heritage conservation area or within the curtilage of a heritage item.
- (2) Must be installed or erected wholly within the boundaries of a property and behind the front building line.
- (3) If installed or erected on land in a residential or environmental protection zone, must comply with the following:
  - (a) if roof mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height at any point must not exceed the highest point of the roof (if the roof is peaked) or 1.2m above the roof (if the roof is flat),
  - (b) if ground mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height must not exceed 4.5m.
- (4) If installed or erected on land within a Business or Industrial zone, must comply with the following:
  - (a) if roof mounted, must have a diameter not exceeding 2.5m (excluding any projecting feed element) and its height at any point must not exceed 2.5m above the highest point of the roof structure,

- 
- (b) if ground mounted, must have a diameter not exceeding 2.5m (excluding any projecting feed element) and its height must not exceed 2.5m above the highest point of the roof of any building on which, or adjacent to which, it is erected.
  - (5) Must be installed in accordance with the manufacturer's specifications and any relevant standard specified by Standards Australia.
  - (6) Must not affect the structural integrity of any building on which it is erected.

**Scaffolding**

- (1) Must enclose the work area.
- (2) Must have sufficient structural strength to withstand and be impenetrable to the impact of falling rubble.
- (3) Must comply with:
  - (a) AS/NZS 1576.1:1995, *Scaffolding—General requirements*, or
  - (b) AS 1576.2–1991, *Scaffolding—Couplers and accessories*, or
  - (c) AS/NZS 1576.3:1995, *Scaffolding—Prefabricated and tube-and-coupler scaffolding*, or
  - (d) AS 1576.4–1991, *Scaffolding—Suspended scaffolding*, or
  - (e) AS/NZS 1576.5:1995, *Scaffolding—Prefabricated splitheads and trestles*.
- (4) Must be erected in accordance with relevant WorkCover Authority requirements.
- (5) Must be removed immediately after the purpose for which it was initially provided has concluded and no safety problem will result due to removal.

**Signage, advertising structures and displays**

- (1) An advertising structure and the display of an advertisement on it, or the display of an advertisement that is not affixed to an advertising structure, being a sign that displays an advertisement that relates to the premises on which it is situated, and that complies with the following:
  - (a) must not cover mechanical ventilation inlet or outlet vents,
  - (b) must relate to a lawful use of, and carried out on, the land,
  - (c) if it has red, amber, green or blue lighting, must not be erected near traffic control signals.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (2) Business identification signs in a residential or an environment protection zone must comply with the following:
  - (a) maximum size—1m<sup>2</sup> in a residential area and 1.5m<sup>2</sup> in an environment protection zone,
  - (b) must not be illuminated,
  - (c) only 1 sign per premises,
  - (d) must be located wholly within property boundaries of the land to which the sign relates, or be flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building.
- (3) Business identification signs in a business zone—only 1 sign per premises from the following list that complies with the requirements for the sign:
  - (a) suspended under awning sign:
    - (i) maximum length—2.5m, and
    - (ii) maximum size—1.5m<sup>2</sup>, and
    - (iii) must be securely fixed by rigid non-corroding metal supports, and
    - (iv) if over a public road, at least 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line,
  - (b) vertical or horizontal projecting wall sign:
    - (i) maximum size—2.5m<sup>2</sup>, and
    - (ii) must be securely fixed by rigid non-corroding metal supports, and
    - (iii) if over a public road, must be suspended at a height not less than 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line,
  - (c) flush wall sign:
    - (i) maximum size—2.5m<sup>2</sup>, and
    - (ii) must be securely fixed by rigid non-corroding metal supports, and
    - (iii) must not project above the top of the wall to which it is attached,
  - (d) top hamper sign:
    - (i) maximum size—2.5m<sup>2</sup>, and
    - (ii) must be securely fixed by rigid non-corroding metal supports, and



- 
- (iii) must not extend below the level of the head of the doorway or window above which it is attached, and
    - (iv) must not be more than 3.7m above the ground level (existing),
    - (e) signs on building walls:
      - (i) maximum height—3m above ground level (existing) on front and side walls, and
      - (ii) maximum display area—50% of the area of the wall.
  - (4) Business identification signs in a industrial zone must comply with the following:
    - (a) maximum size—1m<sup>2</sup> per metre of frontage, up to 10m,
    - (b) must be securely fixed by rigid non-corroding metal supports.
  - (5) Directional signs, name plates, community information signs and law enforcement signs erected by public authorities and erected over a public road must be at least 0.6m from the vertical projection of the kerb line, and suspended at least 2.6m above ground level (existing).
  - (6) Real estate signs advertising that the premises on which they are displayed are for sale or lease must comply with the following:
    - (a) maximum size in a residential zone:
      - (i) for subdivision land sales of over 50 lots—20m<sup>2</sup>,
      - (ii) for multi dwelling development or residential flat buildings of over 10 dwellings and for other subdivision land sales—10m<sup>2</sup>,
      - (iii) in other cases—3m<sup>2</sup>.
    - (b) maximum size in a business or industrial zone—4m<sup>2</sup>,
    - (c) maximum—2 signs per premises,
    - (d) must be located wholly within the property boundaries of the land to which the sign relates, or if on the footpath, be flush against the property boundary,
    - (e) must not be displayed for more than 7 days after the commencement of the letting or settlement for the sale of the property is completed,
    - (f) must not be erected on public land,
    - (g) must not refer to a future use unless any required development consent has been granted.
-

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (7) Building identification signs must comply with the following:
- (a) maximum size— $1\text{m}^2$  in a residential zone and  $1.5\text{m}^2$  in all other zones,
  - (b) maximum height—1.8m in a residential or an environment protection zone,
  - (c) must not be illuminated in a residential or an environment protection zone,
  - (d) must be located wholly within the property boundaries of the land to which the sign relates, or flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building,
  - (e) only 1 sign per premises.
- (8) Temporary signs must comply with the following:
- (a) must only announce a local event of a religious, educational, cultural, political, social or recreational character or relate to a temporary matter in connection with the event,
  - (b) must not include advertising of a commercial nature (except for the name of the event's sponsor),
  - (c) must not be displayed earlier than 28 days before the day on which the event is to take place or commence and must be removed within 14 days after the completion of the event,
  - (d) must not be a fly poster taped to poles, hoardings or buildings.
- (9) School signs must comply with the following:
- (a) maximum size— $0.75\text{m}^2$ ,
  - (b) minimum distance apart—3.5m,
  - (c) maximum height to top of sign—1.5m above ground level (existing),
  - (d) must relate to the school,
  - (e) maximum—6 signs per street frontage.

### **Skylight roof windows (including solar tubes or similar installations)**

- (1) Maximum area of skylight— $1\text{m}^2$ .
- (2) Must be located at least 900mm from each property boundary or wall separating attached dwellings.
- (3) Building work must not reduce the structural integrity of the building or involve structural alterations.
- (4) Any opening created by the installation must be adequately waterproofed.

- (5) Must not compromise fire safety.
- (6) Must be installed to manufacturer's specifications.

**Temporary builders' sheds, port-a-loos etc**

- (1) Must be structurally adequate.
- (2) Maximum area—12m<sup>2</sup>.
- (3) Must be behind the building line to any street frontage.
- (4) Minimum setback from all property boundaries—900mm.
- (5) Must be removed on completion of the development for which it was required.
- (6) Must not be used for habitation or for the storage and handling of inflammable materials.
- (7) If used for waste products and not a port-a-loo—must be connected to an approved waste treatment device or approved connection to Council sewer.

**Tennis courts**

- (1) Must be a single court only for private, non-commercial use.
- (2) Must be on land in Zone R5 Large Lot Residential that has an existing dwelling house.
- (3) Maximum site area—1ha.
- (4) Maximum cut and fill—0.6m
- (5) Must not have lighting installed.
- (6) Must not interfere with any approved on-site effluent disposal treatment system.
- (7) Must be located behind the building line to the primary frontage.

**Tents or marquees used solely for filming purposes**

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m<sup>2</sup>.
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 2 Exempt development

---

- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m<sup>2</sup>,
  - (b) 2 exits in any other case.
- (5) Width of each exit must be at least:
  - (a) 800mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>,  
or
  - (b) 1m in any other case.
- (6) Height of the walls must not exceed:
  - (a) 4m if erected on private land, or
  - (b) 5m in any other case.
- (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
- (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
  - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
  - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
  - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
- (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

### **Water heaters (other than solar heaters)**

- (1) Replacement or new installations.
- (2) Work must not reduce the structural integrity of the building or involve structural alterations.
- (3) Installation must be carried out by a licensed person in accordance with AS/NZS 3500:2003, *Plumbing and drainage*.
- (4) System must include a tampering device set so as to deliver water at the required temperature.

### **Wind energy generating works**

- (1) Maximum height above ground level (existing)—2.7m, unless mounted on an existing building.

Exempt development

Schedule 2

---

- (2) Must be located behind the building line.
- (3) Maximum generating capacity for wind turbines—2Kw.
- (4) Noise emissions must not be audible inside any adjoining dwelling between 10.00 pm and 7.00 am on weekdays, and between 10.00 pm and 8.00 am on Saturdays, Sundays and public holidays. At all other times, noise levels must not exceed 5dBA above ambient background noise level measured at the allotment boundary.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

---

## Schedule 3 Complying development

(Clause 3.2)

### Part 1 Types of development

**Note.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development under that Policy in a complying development code. The Policy will have State-wide application and commences on 27 February 2009

For the first twelve months of operation, both that Policy and this Plan may apply in relation to development that is complying development under this Schedule. When completing an application for a complying development certificate during that period, refer to the *Environmental Planning and Assessment Regulation 2000*.

From 27 February 2010, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* only will apply to development that is complying development.

#### Bed and breakfast accommodation

- (1) Maximum floor area of dwelling—300m<sup>2</sup>.
- (2) Must be located in a lawful dwelling house situated on the land.
- (3) Maximum bedrooms—3.
- (4) Minimum bathrooms—2.
- (5) Must have 1 parking space for each 2 guests as well as 1 parking space for the occupant of the dwelling house.
- (6) Must have a fire extinguisher and fire blanket in the kitchen.
- (7) Must comply with AS 4674—2004, *Construction and fit out of food premises*.
- (8) If not connected to a reticulated sewerage system, the on-site effluent management facility must be adequate for the development.
- (9) Must not be on land shown as affected by the 1% AEP flood level on the Flood Planning Area Map.

#### Carports and garages

- (1) **Application and general**
  - (a) Must not be used for habitation, commercial or industrial purposes.
  - (b) Must not be on land that is Class 1–4 on the Acid Sulfate Soils Map, unless under clause 7.1 (4) the consent authority has provided written advice confirming that results of the preliminary assessment indicate that no works need to be carried out for the works.
  - (c) Must not be on bush fire prone land.

- 
- (d) Must not be on land shown as affected by the 1% AEP flood level on the Flood Planning Area Map.
- (2) **Bulk and scale**
- (a) Maximum floor area:
- (i) for lots more than 450m<sup>2</sup> and not more than 1,000m<sup>2</sup>—45m<sup>2</sup>, and
  - (ii) for lots more than 1000m<sup>2</sup> and not more than 5,000m<sup>2</sup>—50m<sup>2</sup>, and
  - (iii) for lots more than 5,000m<sup>2</sup>—100m<sup>2</sup>.
- (b) Maximum distance between the floor level and the underside of the eaves—2.7m.
- (c) If free-standing, the ridgeline to the roof must be aligned to the building's longest dimension.
- (d) If pitched roofed, maximum pitch—35°, or equal to the pitch of the dwelling house.
- (e) Maximum ridge line height—5m above ground level (existing) for a pitched roof and 3m for a flat roof.
- (3) **Setbacks and siting**
- (a) Must be set back at least 1m behind the front alignment of the dwelling and located behind the building line.
  - (b) Side setback must not be less than the existing alignment of the dwelling or not less than 900mm, whichever is the greater.
  - (c) Rear setback must not be less than 5m.
  - (d) If facing a public road, must not be more than 6.3m wide or 50% of the building width, whichever is the lesser.
  - (e) Must be at least 1m from any sewer main or stormwater main, and load on the foundations must not affect or be affected by those mains.
  - (f) Driveways must be orientated at least 60° to the kerb line and for corner blocks must be outside the building line of the intersecting street.
- (4) **Waste management**
- If reticulated sewerage is unavailable on the site, must not impact on any on-site sewage management system, its disposal area or any required reserve area approved for the system.
- (5) **Stormwater**
- Stormwater drainage must flow by gravity to the street or other approved stormwater drainage system.
-

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

---

### Dwelling houses (alterations, extensions and associated development)

(1) **Application and general**

- (a) Must be in a residential zone.
- (b) Must not be more than 1 dwelling house per lot.
- (c) Must be on a lot connected to a reticulated water and sewerage system.
- (d) Must not be used for commercial or industrial purposes.
- (e) Must not be on land that is Class 1–4 on the Acid Sulfate Soils Map, unless under clause 7.1 (4) the consent authority has provided written advice confirming that results of the preliminary assessment indicate that no works need to be carried out for the works.
- (f) Must not be on flood planning land.
- (g) Must not be located on bush fire prone land.

(2) **Bulk and scale**

- (a) The floor level of the structure must be at least 300mm above the ground level (existing), but not more than 500mm at any point.
- (b) Maximum distance between floor level and underside of eaves—2.7m for single storey dwelling houses and 5.5m for two storey dwelling houses.
- (c) Dwelling houses and attached garages must have a roof pitch of not less than 15° and not more than 35°.

(3) **Setbacks and siting**

- (a) Must be set back at least the greater of any of the following that apply:
  - (i) from a classified road—6m,
  - (ii) from the first road frontage that the dwelling is orientated towards—4.5m,
  - (iii) for land in Zone R5 Large Lot Residential, from any road—10m,
  - (iv) from lanes—2m,
  - (v) from a second road frontage—3m.
- (b) For single storey dwelling houses—must be located at least 900mm from the side boundary and 5.5m from the rear boundary (eaves, gutters, hoods or other similar structures may encroach into these setbacks, but no closer than 600mm to the side boundary and 4.5m to the rear boundary).



- 
- (c) For two storey dwelling houses—must be located at least 2m from the side boundary and 7m from the rear boundary (eaves, gutters, hoods or other similar structures may encroach into these setbacks, but no closer than 1.25m to the side boundary and 6m to the rear boundary).
  - (d) Garages must be set back at least 1m behind the front alignment of the dwelling and located behind the building line.
- (4) **Design and finishes**
- (a) New dwelling houses must be constructed of consistently coloured face brick, or rendered or bagged brick, or timber or manufactured cladding.
  - (b) Roofs must be constructed of single coloured tile, slate, or non-reflective metal finishes in hip or gable form.
  - (c) Additions to an existing dwelling house must use materials of the same type and colour and blend architecturally with any existing buildings.
  - (d) If facing a public road:
    - (i) the combined width of all garages facing the road must not be more than 6m or 40% of the frontage of the lot, whichever is the greater, and
    - (ii) the front door or a window to a habitable room must face that road.
- (5) **Site works**
- (a) Cut and fill must not exceed 1m each.
  - (b) If the overall height of cut and fill exceeds 1m—the top of any cut and the toe of any fill must be at least 2m from each property boundary.
- (6) **Visual privacy**
- (a) Windows in a habitable room of a dwelling that look into a window of a habitable room in an adjoining dwelling and are within 3m of that dwelling must:
    - (i) be offset from the edge of one window to the edge of the other window by a distance of at least 0.5m, or
    - (ii) have a sill height of at least 1.7m above the floor level, or
    - (iii) have fixed obscure glazing in any part of the window below 1.7m above the floor level.
-

**2008 No 643**Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

- (b) The window of any habitable room of a dwelling, a clothes drying area or barbecue, playground or primary recreation area including a swimming pool located on adjoining land must not be in the shadow of the development between 10.00 am and 3.00 pm on 21 June.

**(7) Site cover, landscaping and streetscape**

- (a) Maximum site coverage of all buildings (including paving, decking, sealing, pools or the like) must not exceed the coverage specified in the Table to this item.
- (b) Maximum paving or sealing in front setback area—35% or 6 times the setback, whichever is the lesser.

**Table**

Lot size	Site cover	Deep Soil Zone (DSZ)		Private Open Space (POS)	Landscape Zone (including DSZ & POS)
	(max)	(min)	(min dimensions)		
<600m <sup>2</sup>	65%	15%	2m	20%	25%
600m <sup>2</sup> –<700m <sup>2</sup>	60%	15%	2.5m	25%	25%
700 m <sup>2</sup> –<800m <sup>2</sup>	55%	12.5%	3m	25%	30%
800m <sup>2</sup> –<900m <sup>2</sup>	50%	12.5%	3.5m	30%	30%
900m <sup>2</sup> –<1,000m <sup>2</sup>	45%	10%	4m	35%	35%
1,000m <sup>2</sup> –<2,000m <sup>2</sup>	40%	15%	4m	35%	40%
>2,000m <sup>2</sup>	25%	20%	5m	20%	50%

**(8) Stormwater**

- (a) Stormwater drainage must flow by gravity to the street or other approved stormwater drainage system.
- (b) Must be a least 40m from any watercourse.

**(9) Access, parking and traffic**

Minimum number of off-street car parking spaces—2.

**Dwelling houses (removal or demolition)****(1) Application and general**

- (a) Must be single storey dwelling house.
- (b) Must not be resiting onto land in the Council area.

- 
- (c) Demolition works must be completed within 30 days of commencement.

(2) **Site works**

- (a) Site must be stabilised once the dwelling house has been removed to minimise erosion and sedimentation.
- (b) All services must be removed or disconnected in a safe manner and made safe and secure in accordance with the relevant authority's requirements.
- (c) Trees must not be removed from the site to enable the dwelling house to be removed or demolished.
- (d) Must be carried out in accordance with AS 2601–2001, *Demolition of structures*.
- (e) Explosives must not be used.

(3) **Waste management**

- (a) Materials containing asbestos or lead must be managed so as to negate any occupational health and safety issues and to ensure public health is protected.
- (b) Waste must not be burnt and must be removed from the site within 7 days of completion of works to a Council waste disposal facility or in accordance with a waste management plan.

**Industrial buildings, warehouse or distribution centres (alterations or additions)**

(1) **Application and general**

- (a) Must be on land in an industrial zone.
- (b) Must be an alteration or addition for administration or storage uses carried out in conjunction with a lawful use of the building.
- (c) Additional floor area created must not be used for manufacturing, other industrial or like activity.
- (d) Alterations or additions must not require licensing of the premises by the Department of Environment and Climate Change, or, if an existing licence is in force, must not contravene a condition of the licence.
- (e) Additional external areas must not be occupied for the purposes of storage or manufacturing or any other like activity.
- (f) Must not be on flood planning land.

(2) **Bulk and scale**

- (a) Maximum additional floor area created—200m<sup>2</sup> or 20% of the existing floor area, whichever is the greater.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

---

- (b) Additions must not have a wall height greater than the adjoining wall height of the existing building.
- (c) Additions must not have a roof height greater than that of the adjoining roof height of the existing building.
- (3) **Setbacks and siting**

Minimum development setback, 10m from a main road boundary or 7.6m from any other road boundary, with a minimum 3m setback from any secondary road frontage.
- (4) **Design and finishes**

The design, materials and finish, including colours, of additions (including roof pitch and treatment) must be either the same or similar to that used in the existing building.
- (5) **Site works**

Maximum cut or fill to alter a level—1m.
- (6) **Landscaping and open space**

A landscaped strip at least 3m wide to each street frontage planted with a mix of canopy trees with a mature height of not less than 10m, and shrubs with a mature height of 5m at a density of 1 plant per 3m<sup>2</sup>.
- (7) **Access, parking and traffic**
  - (a) Must have safe and direct access to a public road.
  - (b) Existing lawful arrangements for car parking and vehicle access must not be altered, other than as follows:
    - (i) Factories—1 car parking space per 40m<sup>2</sup> of office and showroom area, plus 1 car parking space per 100m<sup>2</sup> of gross floor area, or 1 car parking space per 2 employees, whichever is the greater.
    - (ii) Warehouse or distribution centres—1 car parking space per 300m<sup>2</sup> of gross floor area.
  - (c) Must not change existing driveway access or loading and unloading arrangements, other than lawful changes made wholly within the site that do not contravene any condition of a development consent applying to the land.
- (8) **Services**
  - (a) Must be serviced with reticulated water, sewer, electricity and telephone.
  - (b) Must have kerb and gutter to the full frontage to road.

- 
- (c) If drainage works—must be designed and certified by a professional engineer in accordance with AS/NZS 3500:2003, *Plumbing and drainage*.
  - (d) If required—stormwater drainage must be connected to the Council's drainage system in accordance with the Council's adopted *AUSPEC Code*.
  - (e) If for garbage or waste storage—must be located where they cannot be seen from a public place.

**Recreation facilities (hit-up walls)**

- (1) Must be on a lot on which a dwelling house is erected.
- (2) Must only be for private use.
- (3) Must be set back at least 2m from each property boundary.
- (4) Must be located behind the building line.
- (5) Maximum height —3m above ground level (existing).
- (6) Maximum length—7m.
- (7) Must not be illuminated.
- (8) Paved area associated with the wall must be constructed so that it drains directly into the existing on-site stormwater drainage system.
- (9) Perimeter netting must be installed in accordance with the manufacturer's specifications.
- (10) The window of any habitable room of a dwelling house, a clothes drying area or designated barbecue, playground or primary recreation area including a swimming pool located on adjoining land must not be in the shadow of the development between 10.00 am and 3.00 pm on 21 June.

**Recreation facilities (swimming pools and spa pools)**

- (1) **Application and general**
  - (a) Must only be for private use.
  - (b) Must be on a lot over 450m<sup>2</sup> on which a dwelling house is erected.
  - (c) Must not be on land shown as affected by the 1% AEP flood level on the Flood Planning Area Map.
  - (d) Must not be on land that is Class 1–4 on the Acid Sulfate Soils Map, unless under clause 7.1 (4) the consent authority has provided written advice confirming that results of the preliminary assessment indicate that no works need to be carried out for the works.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

---

- (2) **Bulk and scale**

Maximum height of coping or decking—900mm above the ground level (existing).
- (3) **Setbacks and siting**
  - (a) Must be located behind the building line.
  - (b) The outer edge of the pool concourse or coping must be set back at least 1m from each property boundary with the waterline being at least 1.5m from each property boundary.
  - (c) Must be sited at least 1m horizontally from any easement, sewer main and stormwater main, and loads on the foundations must not affect or be affected by those mains.
- (4) **Lighting**
  - (a) Must be mounted on either the pool, a building or a freestanding structure.
  - (b) Maximum power rating—100w in the case of ambient lighting or, 150w in the case of directional lighting.
  - (c) Directional lighting must be focused away from adjoining dwellings and their curtilage.
  - (d) If lighting is a freestanding structure, maximum height—3m above ground level (existing).
- (5) **Noise control**

Noise emissions from any filtration equipment or pumps when lawfully operating must not exceed 5dBA above ambient background noise level measured at the lot boundary.
- (6) **Stormwater**

Must not impede existing site drainage or restrict the overland flow of stormwater.
- (7) **Landscaping**

If landscaped, must be landscaped with advanced screening vegetation.
- (8) **Waste management**

If reticulated sewerage is not available on the site, must not impact on any existing on-site sewage management system, its disposal area or any required reserve area approved for the system.

---

(9) **Other**

Must comply with:

- (a) AS/NZS 1838:1994, *Swimming pools—Premoulded fibre-reinforced plastics—Design and fabrication*, and AS/NZS 1839:1994, *Swimming pools—Premoulded fibre-reinforced plastics—Installation*, or
- (b) AS 2783—1992, *Use of reinforced concrete for small swimming pools*.

**Recreation facilities (tennis courts)**

- (1) Must only be for private use.
- (2) Must be on a lot on which a dwelling house is erected.
- (3) Must be set back at least 2m from each property boundary.
- (4) Must be located behind the building line.
- (5) Maximum height of perimeter protective netting or wire—3m above ground level (existing).
- (6) Must not be illuminated.
- (7) Must be constructed so that it drains directly into the existing on-site stormwater drainage system.
- (8) Perimeter protective netting must be installed in accordance with the manufacturer's specifications.

**Retail premises, office premises and related buildings (alterations to)**

- (1) Development must consist of internal fit-out of, or internal alterations to, a lawful retail premises (including food and drink premises) or office premises that results in no increase in the total floor area of the building.
- (2) If the building is to be occupied as a shop premises that prepares food for sale or consumption, the premises must comply with AS 4674—2004, *Construction and fit out of food premises*.
- (3) The existing lawful conditions for car parking, loading, unloading and vehicle access must not be altered, other than to permit 1 car parking space per 30m<sup>2</sup> of gross leaseable floor area for buildings of a single storey.
- (4) Must not be an alteration that converts a type of retail premises to bulky goods premises, cellar door premises, food and drink premises, landscape and garden supplies, markets, restricted premises, roadside stalls, rural supplies, service stations, timber and building supplies, or vehicle sales or hire premises.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 3 Complying development

---

- (5) Must not be an alteration that converts bulky goods premises, cellar door premises, kiosks, landscape and garden supplies, markets, roadside stalls, rural supplies, service stations, timber and building supplies, or vehicle sales or hire premises to another type of retail premises.

## Part 2 Complying development certificate conditions

**Note.** The following conditions apply to all complying development certificates whether issued by the Council or an accredited certifier. Information relevant to this Part is also contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, the *Protection of the Environment Operations Act 1997* and the *Roads Act 1993*.

### 1 Notice before work begins

The person having the benefit of the complying development certificate must give any occupier of adjoining premises at least 2 days' notice before work begins.

### 2 Site management

The person having the benefit of the complying development certificate must, during construction:

- (a) have a sign at the front of the site displaying the builder's name, licence number and the consent number, and
- (b) provide a temporary on-site toilet or access to an existing toilet on site.

### 3 Drainage, run-off and erosion controls

- (1) The person having the benefit of the complying development certificate must implement the following run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment onto surrounding land:
  - (a) divert uncontaminated run-off around cleared or disturbed areas,
  - (b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
  - (c) prevent the tracking of sediment by vehicles onto roads,
  - (d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
- (2) Removal or disturbance of vegetation and topsoil must be confined to within 3m of the proposed work.
- (3) Land surrounding any structure must be graded to divert surface water to the street, and must be clear of existing and proposed work and adjoining premises.



- 
- (4) If water falls to the rear of the property, it must be collected and drained by way of a gravity system to a Council stormwater main or disposed of in a manner consistent with the Council's policy titled *Soil and Water Management*.

#### 4 Inspections during construction

If the Council is the principal certifying authority, the person having the benefit of the complying development certificate must notify the Council at least 48 hours (in writing) or 24 hours (by phone) before an inspection is required for any of the following:

- (a) erosion controls, site works and site set out, before building starts,
- (b) placement of piers or foundation before placing footings,
- (c) steel reinforcing before pouring concrete,
- (d) framework of structure before lining or cladding is fixed,
- (e) stormwater drainage and on-site detention before backfilling,
- (f) wet areas treated before lining or tiling,
- (g) if the development is located in an area not serviced by a reticulated sewerage system, the following additional inspections:
  - (i) internal and external drainage,
  - (ii) hot and cold water.

#### 5 Construction hours

Work that may result in noise nuisance must be carried out only between 7.00 am. and 6.00 pm, Monday to Friday, and 8:00 am to 1:00 pm on Saturdays.

#### 6 Survey certificate

To ensure compliance with approved plans, a survey certificate, prepared by a registered surveyor and stating the following, must be given to the principal certifying authority, at the following stages:

- (a) on completion of the floor slab framework before concrete is poured—detailing the location of the structure in relation to the boundaries, and
- (b) an completion of the lowest floor—confirming that levels are in accordance with the certificate (which levels must relate to the datum shown on the certificate). In relation to flood planning land, the survey must confirm that the floor level complies with the floor level requirements for flood planning land in that location.

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Schedule 4 Classification and reclassification of public land

---

**Schedule 4 Classification and reclassification of public land**

(Clause 5.2)

**Part 1 Land classified, or reclassified, as operational land—no interests changed**

Column 1	Column 2
Locality	Description

---

**Part 2 Land classified, or reclassified, as operational land—interests changed**

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

---

**Part 3 Land classified, or reclassified, as community land**

Column 1	Column 2
Locality	Description

---

---

## **Schedule 5 Environmental heritage**

(Clause 5.10)

### **Part 1 Heritage items**

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Nil					

### **Part 2 Heritage conservation areas**

<b>Name of heritage conservation area</b>	<b>Identification on Heritage Map</b>	<b>Significance</b>
Place of Aboriginal heritage significance, Karikeree 1	Shown coloured orange on the Heritage Map and numbered 1	Local
Place of Aboriginal heritage significance, Wattoo 7	Shown coloured orange on the Heritage Map and numbered 2	Local
Place of Aboriginal heritage significance, Thrumster Knoll Site A	Shown coloured orange on the Heritage Map and numbered 3	Local

## Dictionary

(Clause 1.4)

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**acid sulfate soils** means naturally occurring sediments and soils containing iron sulfides (principally pyrite) or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulfuric acid (for example, by drainage or excavation).

**Acid Sulfate Soils Manual** means the manual by that name published by the Acid Sulfate Soils Management Advisory Committee and made publicly available.

**Acid Sulfate Soils Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Acid Sulfate Soils Map.

**Acoustic Controls Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Acoustic Controls Map.

**advertisement** has the same meaning as in the Act.

**Note.** The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

**advertising structure** has the same meaning as in the Act.

**Note.** The term is defined as a structure used or to be used principally for the display of an advertisement.

**affordable housing** has the same meaning as in the Act.

**Note.** The term is defined as housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

**agricultural produce industry** means an industry involving the handling, treating, processing or packing of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

**agriculture** means any of the following:

- (a) animal boarding or training establishments,
- (b) aquaculture,
- (c) extensive agriculture,
- (d) farm forestry,
- (e) intensive livestock agriculture,
- (f) intensive plant agriculture.

**air transport facility** means an airport or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

---

**airport** means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

**airstrip** means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

**amusement centre** means a building or place (not being part of a pub or registered club) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

**animal boarding or training establishment** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

**aquaculture** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**aquaculture** means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),

but does not include:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

This Dictionary also contains definitions of **natural water-based aquaculture**, **pond-based aquaculture** and **tank-based aquaculture**.

**archaeological site** means an area of land:

- (a) shown on the Heritage Map as an archaeological site, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) that contains one or more relics.

**Area 13 Thrumster** means the land to which this Plan applies.

**attached dwelling** means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and
- (c) none of the dwellings is located above any part of another dwelling.

**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

**backpackers' accommodation** means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

**bed and breakfast accommodation** means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

**biodiversity** means biological diversity.

**biological diversity** has the same meaning as in the *Threatened Species Conservation Act 1995*.

**Note.** The term is defined as follows:

**biological diversity** means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**biosolid waste application** means the application of sludge or other semi-solid products of human sewage treatment plants to land for the purpose of improving land productivity, that is undertaken in accordance with the NSW Environment Protection Authority's guidelines titled *Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 1997) and *Addendum to Environmental Guidelines: Use and Disposal of Biosolids Products* (EPA 2000a).

**biosolids treatment facility** means a building or place used as a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

**boarding house** means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and

(c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and

(d) that has rooms that accommodate one or more lodgers,

but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.

**boat launching ramp** means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

**boat repair facility** means any facility (including a building or other structure) used primarily for the construction, maintenance or repair of boats, whether or not including the storage, sale or hire of boats, but does not include a marina or boat shed.

**boat shed** means a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

**brothel** has the same meaning as in the Act.

**building** has the same meaning as in the Act.

**Note.** The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure).

**building height (or height of building)** means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**building identification sign** means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

**building line** or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

**bulky goods premises** means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

**bush fire hazard reduction work** has the same meaning as in the *Rural Fires Act 1997*.

**Note.** The term is defined as follows:

**bush fire hazard reduction work** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

**bush fire prone land** has the same meaning as in the Act.

**Note.** The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the Act.

**bush fire risk management plan** means a plan prepared under Division 4 of Part 3 of the *Rural Fires Act 1997* for the purpose referred to in section 54 of that Act.

**business identification sign** means a sign:

- (a) that indicates:
  - (i) the name of the person or business, and
  - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**business premises** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

**canal estate development** means development that incorporates wholly or in part a constructed canal, or other waterway or waterbody, that is inundated by or drains to a natural waterway or natural waterbody by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and that either:

- (a) includes the construction of dwellings (which may include tourist and visitor accommodation) of a kind other than, or in addition to:



- (i) dwellings that are permitted on rural land, and
  - (ii) dwellings that are used for caretaker or staff purposes, or
- (b) requires the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**catchment action plan** has the same meaning as in the *Catchment Management Authorities Act 2003*.

**Note.** The term is defined as a catchment action plan of an authority that has been approved by the Minister under Part 4 of the *Catchment Management Authorities Act 2003*.

**cellar door premises** means retail premises that sell wine by retail and that are situated on land on which there is a commercial vineyard, where all of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**cemetery** means a building or place for the interment of deceased persons or their ashes.

**charter and tourism boating facility** means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

**child care centre** means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
  - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

**classified road** has the same meaning as in the *Roads Act 1993*.

**Note.** The term is defined as follows:

**classified road** means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(see *Roads Act 1993* for meanings of these terms).

**clearing native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**clearing native vegetation** means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

**coastal foreshore** means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

**coastal lake** means a body of water specified in Schedule 1 to the *State Environmental Planning Policy No 71—Coastal Protection*.

**coastal waters of the State**—see section 58 of the *Interpretation Act 1987*.

---

**coastal zone** has the same meaning as in the *Coastal Protection Act 1979*.

**Note.** The term is defined as follows:

**coastal zone** means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

**community facility** means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

**community land** has the same meaning as in the *Local Government Act 1993*.

**correctional centre** means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

**Council** means the Port Macquarie-Hastings Council.

**crematorium** means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

**Crown reserve** means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*,

but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

**curtilage**, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

**dairy (pasture-based)** means a dairy where the only restriction facilities present are the milking sheds and holding yards and where cattle are constrained for no more than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief).

**demolish**, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) rail infrastructure and land,
- (d) land required for regional open space,
- (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

**drainage** means any activity that intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

**dual occupancy** means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**dwelling house** means a building containing only one dwelling.

**earthworks** means excavation or filling.

**ecologically sustainable development** has the same meaning as in the Act.

**educational establishment** means a building or place used for education (including teaching), being:

- (a) a school, or

- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

**electricity generating works** means a building or place used for the purpose of making or generating electricity.

**emergency services facility** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

**emergency services organisation** means any of the following:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*,
- (h) an accredited rescue unit within the meaning of the *State Emergency and Rescue Management Act 1989*.

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub, nightclub or registered club.

**environmental facility** means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

**environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

**estuary** has the same meaning as in the *Water Management Act 2000*.

**Note.** The term is defined as follows:

**estuary** means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

**excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

**exhibition home** means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

**exhibition village** means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.

**extensive agriculture** means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
- (b) the grazing of livestock, or
- (c) bee keeping,

for commercial purposes, but does not include any of the following:

- (d) animal boarding or training establishments,
- (e) aquaculture,
- (f) farm forestry,
- (g) intensive livestock agriculture,
- (h) intensive plant agriculture.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

**farm building** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

**farm stay accommodation** means tourist and visitor accommodation provided to paying guests on a working farm as a secondary business to primary production.

**Note.** See clause 5.4 for controls relating to the number of bedrooms.

**feedlot** means a confined or restricted area used to rear and fatten cattle, sheep or other animals for the purpose of meat production, fed (wholly or substantially) on prepared and manufactured feed, but does not include a poultry farm, dairy or piggery.

---

**fill** means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

**filming** means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the internet or by other means), but does not include:

- (a) still photography, or
- (b) recording images of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) recording images as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

**fish** has the same meaning as in the *Fisheries Management Act 1994*.

**Note.** The term is defined as follows:

**Definition of “fish”**

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
  - (a) oysters and other aquatic molluscs, and
  - (b) crustaceans, and
  - (c) echinoderms, and
  - (d) beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

**flood planning land** means the land shown as “Flood Planning Land” on the Flood Planning Area Map.

**Flood Planning Area Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Flood Planning Area Map.

**flood mitigation work** means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

***floodway*** means the land shown as “Floodways” on the Flood Planning Area Map.

***food and drink premises*** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

***forestry*** has the same meaning as ***forestry operations*** in the *Forestry and National Park Estate Act 1998*.

**Note.** The term is defined as follows:

***forestry operations*** means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

***freight transport facility*** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

***function centre*** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

***funeral chapel*** means premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

***funeral home*** means premises used to arrange and conduct funerals and memorial services, and includes facilities for the short-term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

***gross floor area*** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and



## Dictionary

- 
- (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

**ground level (existing)** means the existing level of a site at any point.

**ground level (finished)** means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

**ground level (mean)** means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

**group home** means a dwelling that is a permanent group home or a transitional group home.

**group home (permanent) or permanent group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

**group home (transitional) or transitional group home** means a dwelling:

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
- (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

***hazardous industry*** means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

***hazardous storage establishment*** means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

***headland*** includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

***health care professional*** means any person registered under an Act for the purpose of providing health care.

***health consulting rooms*** means a medical centre that comprises one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

***health services facility*** means a building or place used as a facility to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

***heavy industry*** means an industry that requires separation from other land uses because of the nature of the processes involved, or the materials used, stored or produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

***helipad*** means a place not open to the public used for the taking off and landing of helicopters.

**heliport** means a place open to the public used for the taking off and landing of helicopters, whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

**heritage conservation area** means an area of land:

- (a) shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance, and
  - (b) the location and nature of which is described in Schedule 5,
- and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**heritage impact statement** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in Schedule 5, and
- (c) specified in an inventory of heritage items that is available at the office of the Council.

**Heritage Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Heritage Map.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**highway service centre** means a building or place used as a facility to provide refreshments and vehicle services to highway users, and which may include any one or more of the following:

- (a) restaurants or take away food and drink premises,
- (b) service stations and facilities for emergency vehicle towing and repairs,
- (c) parking for vehicles,
- (d) rest areas and public amenities.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

**home-based child care** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

**home business** means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the business.

**home industry** means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or

## Dictionary

---

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation or sex services premises.

**Note.** See clause 5.4 for controls relating to the floor area used to carry on the light industry.

**home occupation** means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

**home occupation (sex services)** means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

**horticulture** means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include retail sales or viticulture.

**hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,

- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**hostel** means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and
- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

**hotel or motel accommodation** means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 2007*):

- (a) comprising rooms or self-contained suites, and
- (b) that may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

**industrial retail outlet** means a building or place that:

- (a) is used in conjunction with an industry (including a light industry) but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

**Note.** See clause 5.4 for controls relating to the retail floor area.

**industry** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

**information and education facility** means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

***intensive livestock agriculture*** means the keeping or breeding, for commercial purposes, of cattle, poultry, goats, horses or other livestock, that are fed wholly or substantially on externally-sourced feed, and includes the operation of feed lots, piggeries, poultry farms or restricted dairies, but does not include the operation of facilities for drought or similar emergency relief or extensive agriculture or aquaculture.

***intensive plant agriculture*** means any of the following carried out for commercial purposes:

- (a) the cultivation of irrigated crops (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

***jetty*** means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

***kiosk*** means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

**Note.** See clause 5.4 for controls relating to the gross floor area.

***Koala Habitat Map*** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Koala Habitat Map.

***Koala Plan of Management*** means the document titled *Area 13 UIA Koala Plan of Management* and adopted by the Council on 12 June 2008.

***Land Application Map*** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Land Application Map.

***Land Reservation Acquisition Map*** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Land Reservation Acquisition Map.

***Land Zoning Map*** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Land Zoning Map.

***landscape and garden supplies*** means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

***landscaped area*** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

***light industry*** means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Dictionary

---

**liquid fuel depot** means storage premises that are used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid and at which no retail trade is conducted.

**livestock processing industry** means an industry that involves the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals, derived principally from surrounding districts, and includes such activities as abattoirs, knackeries, tanneries, woolscours and rendering plants.

**Lot Size Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Lot Size Map.

**maintenance**, in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**marina** means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

**market** means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

**mean high water mark** means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

**medical centre** means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

**mezzanine** means an intermediate floor within a room.

**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.



---

**mine subsidence district** means a mine subsidence district proclaimed under section 15 of the *Mine Subsidence Compensation Act 1961*.

**mining** means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

**mixed use development** means a building or place comprising 2 or more different land uses.

**mooring** means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

**mortuary** means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

**moveable dwelling** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**moveable dwelling** means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.

**native fauna** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

**native flora** means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the *Fisheries Management Act 1994*.

**native vegetation** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**Meaning of “native vegetation”**

- (1) **Native vegetation** means any of the following types of indigenous vegetation:
  - (a) trees (including any sapling or shrub, or any scrub),
  - (b) understorey plants,
  - (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

- (2) Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) **Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

**natural water-based aquaculture** means aquaculture undertaken in natural waterbodies (including any part of the aquaculture undertaken in tanks, ponds or other facilities such as during hatchery or depuration phases).

**Note.** Typical natural water-based aquaculture is fin fish culture in cages and oyster, mussel or scallop culture on or in racks, lines or cages.

**navigable waterway** means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**neighbourhood shop** means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

**Note.** See clause 5.4 for controls relating to the retail floor area.

**nightclub** means premises specified in a nightclub licence under the *Liquor Act 1982*.

**non-potable water** means water that does not meet the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**NSW Coastal Policy** means the publication titled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, published by the Government.

**Obstacle Limitation Surface Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Obstacle Limitation Surface Map.

**offensive industry** means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**offensive storage establishment** means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with

---

members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**operational land** has the same meaning as in the *Local Government Act 1993*.

**parking space** means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

**passenger transport facility** means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

**place of Aboriginal heritage significance** means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**place of public entertainment** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**place of public entertainment** means:

- (a) any theatre or cinema (including a drive-in or open-air theatre or cinema) that is used or intended to be used for the purpose of providing public entertainment, or
- (b) any premises the subject of a licence under the *Liquor Act 2007* or a certificate of registration under the *Registered Clubs Act 1976*, that are used or intended to be used for the purpose of providing entertainment, including public entertainment, but not including amusement provided by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, or
- (c) any public hall that is used or intended to be used for the purpose of providing public entertainment.

**place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

**pond-based aquaculture** means aquaculture undertaken in structures that are constructed by excavating and reshaping earth, which may be earthen or lined, and includes any part of the aquaculture undertaken in tanks, such as during the hatchery or pre-market conditioning phases, but does not include natural water-based aquaculture.

**Note.** Typical pond-based aquaculture is the pond culture of prawns, yabbies or silver perch.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Dictionary

---

**port facilities** means any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**potable water** means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

**private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

**property vegetation plan** has the same meaning as in the *Native Vegetation Act 2003*.

**Note.** The term is defined as follows:

**property vegetation plan** means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold on the premises.

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

**public authority** has the same meaning as in the Act.

**public entertainment** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**public entertainment** means entertainment to which admission may ordinarily be gained by members of the public on payment of money or other consideration:

- (a) whether or not some (but not all) persons are admitted free of charge, and
- (b) whether or not the money or other consideration is demanded:
  - (i) as a charge for a meal or other refreshment before admission is granted, or
  - (ii) as a charge for the entertainment after admission is granted.

---

**public land** has the same meaning as in the *Local Government Act 1993*.

**Note.** The term is defined as follows:

**public land** means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

**public reserve** has the same meaning as in the *Local Government Act 1993*.

**public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

**public utility undertaking** means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

**rainwater tank** means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

**recreation area** means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

**recreation facility (outdoor)** means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

**Reduced Level (RL)** means height above the Australian Height Datum, being the datum surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971.

**registered club** means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force.

**relic** means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Port Macquarie-Hastings, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

**research station** means a building or place operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

**residential accommodation** means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

**residential care facility** means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered

## Dictionary

---

resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

**restaurant** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.

**restricted dairy** means a dairy (other than a dairy (pasture-based)) where restriction facilities are present in addition to milking sheds and holding yards, and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during periods of drought or similar emergency relief). A restricted dairy may comprise the whole or part of a restriction facility.

**restricted premises** means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, home occupation (sex services) or sex services premises.

**restriction facilities** means facilities where animals are constrained for management purposes, including milking sheds, pads, feed stalls, holding yards and paddocks where the number of livestock exceeds the ability of vegetation to recover from the effects of grazing in a normal growing season, but does not include facilities for drought or similar emergency relief.

**retail premises** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

**road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

**roadside stall** means a place or temporary structure used for retail selling of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

**Note.** See clause 5.4 for controls relating to the gross floor area.

**rural industry** means an industry that involves the handling, treating, production, processing or packing of animal or plant agricultural products, and includes:

- (a) agricultural produce industry, or
  - (b) livestock processing industry, or
  - (c) use of composting facilities and works (including to produce mushroom substrate), or
  - (d) use of sawmill or log processing works, or
  - (e) use of stock and sale yards, or
  - (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise,
- undertaken for commercial purposes.

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

**rural supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of stockfeeds, grains, seed, fertilizers, veterinary supplies and other goods or materials used in farming and primary industry production.

**rural worker's dwelling** means a dwelling, ancillary to a dwelling house on the same landholding, used as the principal place of residence by persons employed for the purpose of agriculture or a rural industry on that land.

**sawmill or log processing works** means a building or place used for handling, cutting, chipping, pulping or otherwise processing logs, baulks, branches or stumps, principally derived from surrounding districts, into timber or other products derived from wood.

**school** means a government school or non-government school within the meaning of the *Education Act 1990*.

**secondary dwelling** means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

**Note.** See clause 5.4 for controls relating to the total floor area.

**self-storage units** means storage premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

**semi-detached dwelling** means a dwelling that is on its own lot of land (not being an individual lot in a strata plan or community title scheme) and is attached to only one other dwelling.

**seniors housing** means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.



Dictionary

---

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**serviced apartment** means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**sewage reticulation system** means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

**sewage treatment plant** means a building or place used for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

**sewerage system** means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

**sex services** means sexual acts or sexual services in exchange for payment.

**sex services premises** means a brothel, but does not include home occupation (sex services).

**shop** means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

**shop top housing** means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

**signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and

## 2008 No 643

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

### Dictionary

---

- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

**site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.

**Note.** The effect of this definition is varied by clause 4.5 for the purpose of the determination of permitted floor space area for proposed development.

**site coverage** means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

**spa pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

**stock and sale yard** means a building or place used on a commercial basis for the purpose of offering livestock or poultry for sale and may be used for the short-term storage and watering of stock.

**storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

**swimming pool** has the same meaning as in the *Swimming Pools Act 1992*.

**Note.** The term is defined as follows:

**swimming pool** means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

---

**take away food and drink premises** means food and drink premises that are predominantly used for the preparation and sale of food or drink (or both) for immediate consumption away from the premises.

**tank-based aquaculture** means aquaculture utilising structures that are constructed from materials such as fibreglass, plastics, concrete, glass or metals, are usually situated either wholly or partly above ground, and may be contained within a purpose built farm or industrial style sheds or plastic covered hothouse to assist in controlling environmental factors.

**telecommunications facility** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

**telecommunications network** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

**temporary structure** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**temporary structure** includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

**the Act** means the *Environmental Planning and Assessment Act 1979*.

**timber and building supplies** means a building or place used for the display, sale (whether by retail or wholesale) or hire of goods or materials that are used in the construction and maintenance of buildings.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel or motel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

**transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

**truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

**turf farming** means the commercial cultivation of turf for sale and the removal of turf for that purpose.

**urban release area** means an area of land shown hatched and lettered "Urban Release Area" on the Urban Release Area Map.

**Urban Release Area Map** means the Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan 2008 Urban Release Area Map.

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

**vehicle sales or hire premises** means a building or place used for the display, sale (whether by retail or wholesale) or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**viticulture** means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**waste disposal facility** means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

**waste management facility** means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

**waste or resource management facility** means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

**water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

**water recycling facility** means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

**water reticulation system** means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**water supply system** means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

**water treatment facility** means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

**waterbody** means a waterbody (artificial) or waterbody (natural).

**waterbody (artificial)** or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

**waterbody (natural)** or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or

**2008 No 643**

Port Macquarie-Hastings (Area 13 Thrumster) Local Environmental Plan  
2008

Dictionary

---

- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

***wholesale supplies*** means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

BY AUTHORITY

---