



New South Wales

# Port Macquarie-Hastings Local Environmental Plan 2011

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, pursuant to section 33A of the *Environmental Planning and Assessment Act 1979*, adopt the mandatory provisions of the *Standard Instrument (Local Environmental Plans) Order 2006* and prescribe matters required or permitted by that Order so as to make a local environmental plan as follows. (10/17323-1)

TONY KELLY, MLC  
Minister for Planning

## 2011 No 84

Port Macquarie-Hastings Local Environmental Plan 2011

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## Port Macquarie-Hastings Local Environmental Plan 2011

under the

Environmental Planning and Assessment Act 1979

### Part 1 Preliminary

#### 1.1 Name of Plan

This Plan is *Port Macquarie-Hastings Local Environmental Plan 2011*.

#### 1.1AA Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

#### 1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Port Macquarie-Hastings in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to protect, conserve and sustainably manage the ecological biodiversity and natural environment of the Port Macquarie-Hastings area,
  - (b) to facilitate a strong and diverse local economy within the Port Macquarie-Hastings area,
  - (c) to manage and coordinate the orderly, equitable and economic use and development of land within the Port Macquarie-Hastings area,
  - (d) to facilitate the provision and coordination of community services and facilities within the Port Macquarie-Hastings area,
  - (e) to facilitate adaptive planning for natural hazards and risks, including flooding, erosion, inundation, land stability, bush fire risk and acid sulfate soils within the Port Macquarie-Hastings area,

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- (f) to reinforce the role of the Port Macquarie-Hastings area's settlement hierarchy, centred on Port Macquarie and supported by its surrounding towns and villages,
- (g) to ensure the effective management of public assets within the Port Macquarie-Hastings area,
- (h) to provide a land use framework for development within the Port Macquarie-Hastings area that is safe, inclusive and equitable, and caters for the housing, employment, entertainment, cultural, welfare and recreational needs of residents and visitors,
- (i) to ensure that development does not conflict with the hierarchy of business and retail centres in the Port Macquarie-Hastings area and the role of the Greater Port Macquarie Central Business District as the focal point for subregional functions and service delivery,
- (j) to identify and protect features of environmental, cultural or visual importance within the Port Macquarie-Hastings area.

### 1.3 Land to which Plan applies

- (1) This Plan applies to the land identified on the Land Application Map.
- (1A) Despite subclause (1), this Plan does not apply to the land identified on the Land Application Map as "Deferred matter".

### 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.

**Note.** The following local environmental plans are repealed:

*Hastings Local Environmental Plan 1987*

*Hastings Local Environmental Plan 2001*

- (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.

#### 1.8A Savings provision relating to development applications

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 as if this Plan had not commenced.

**Note.** However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

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Clause 1.9 Port Macquarie-Hastings Local Environmental Plan 2011

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### 1.9 Application of SEPPs

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (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* (clause 6 and Parts 3 and 4)
  - State Environmental Planning Policy No 60—Exempt and Complying Development*
  - North Coast Regional Environmental Plan*
  - Clause 9 of *State Environmental Planning Policy (Rural Lands) 2008*

### 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 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*, or
  - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.



- (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).

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Clause 2.1 Port Macquarie-Hastings Local Environmental Plan 2011

Part 2 Permitted or prohibited development

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## Part 2 Permitted or prohibited development

### 2.1 Land use zones

The land use zones under this Plan are as follows:

#### **Rural Zones**

RU1 Primary Production

RU2 Rural Landscape

RU3 Forestry

RU5 Village

RU6 Transition

#### **Residential Zones**

R1 General Residential

R2 Low Density Residential

R3 Medium Density Residential

R4 High Density Residential

R5 Large Lot Residential

#### **Business Zones**

B1 Neighbourhood Centre

B2 Local Centre

B3 Commercial Core

B4 Mixed Use

B5 Business Development

B7 Business Park

#### **Industrial Zones**

IN1 General Industrial

IN2 Light Industrial

IN3 Heavy Industrial

IN4 Working Waterfront

#### **Special Purpose Zones**

SP1 Special Activities

SP2 Infrastructure

SP3 Tourist

#### **Recreation Zones**

RE1 Public Recreation

RE2 Private Recreation

**Environment Protection Zones**

E1 National Parks and Nature Reserves

E2 Environmental Conservation

E3 Environmental Management

E4 Environmental Living

**Waterway Zones**

W1 Natural Waterways

W2 Recreational Waterways

W3 Working Waterways

**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 Land Use 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 Land Use 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 Land Use 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.

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Clause 2.4 Port Macquarie-Hastings Local Environmental Plan 2011

Part 2 Permitted or prohibited development

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- 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.
- (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.

#### **2.6AA 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 an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

#### **2.6BB 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 use 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 applicable environmental planning instrument, 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 land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.

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Clause 2.6BB Port Macquarie-Hastings Local Environmental Plan 2011

Part 2 Land Use Table

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- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

### Land Use Table

**Note.** A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

*State Environmental Planning Policy (Affordable Rental Housing) 2009* (including provision for secondary dwellings)

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

*State Environmental Planning Policy (Infrastructure) 2007* (relating to public facilities such as those for air transport, correction, education, electricity generation, health services, ports, railways, roads, waste management and water supply systems)

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

*State Environmental Planning Policy (Rural Lands) 2008*

*State Environmental Planning Policy No 33—Hazardous and Offensive Development*

*State Environmental Planning Policy No 50—Canal Estate Development*

*State Environmental Planning Policy No 62—Sustainable Aquaculture*

*State Environmental Planning Policy No 64—Advertising and Signage*

### Zone RU1 Primary Production

#### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

#### 2 Permitted without consent

Extensive agriculture; Home occupations; Horticulture

#### 3 Permitted with consent

Agriculture; Air transport facilities; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation;

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Forestry; Helipads; Home businesses; Mining; Roads; Roadside stalls; Rural supplies; Rural workers' dwellings; Sawmill or log processing works

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone RU2 Rural Landscape**

**1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To provide for rural tourism that does not compromise the primary industry capabilities of the land and is based on the rural attributes of the land.
- To secure a future for agriculture in the area by minimising loss of potential agricultural productivity and fragmentation of rural land.

**2 Permitted without consent**

Extensive agriculture; Home occupations; Horticulture

**3 Permitted with consent**

Agriculture; Air transport facilities; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Forestry; Helipads; Home businesses; Information and education facilities; Places of public worship; Recreation areas; Roads; Rural industries; Rural supplies; Rural workers' dwellings; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

## 2011 No 84

Clause 2.6BB Port Macquarie-Hastings Local Environmental Plan 2011

Part 2 Land Use Table

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### Zone RU3 Forestry

#### 1 Objectives of zone

- To enable development for forestry purposes.
- To enable other development that is compatible with forestry land uses.

#### 2 Permitted without consent

Uses authorised under the *Forestry Act 1916*

#### 3 Permitted with consent

Roads

#### 4 Prohibited

Any development not specified in item 2 or 3

### Zone RU5 Village

#### 1 Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To permit development that is appropriate in scale and type with the characteristics of a rural village.
- 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

Agriculture; Amusement centres; Attached dwellings; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Farm buildings; Flood mitigation works; Group homes; Health services facilities; Helipads; Heliports; Home businesses; Hotel or motel accommodation; Information and education facilities; Light industries; Multi dwelling housing; Neighbourhood shops; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Retail premises; Roads; Rural supplies;



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Schools; Semi-detached dwellings; Service stations; Signage; Veterinary hospitals; Waste or resource transfer stations; Water recreation structures

**4 Prohibited**

Markets; Roadside stalls; Any other development not specified in item 2 or 3

**Zone RU6 Transition**

**1 Objectives of zone**

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

**2 Permitted without consent**

Extensive agriculture; Home occupations; Horticulture

**3 Permitted with consent**

Agriculture; Building identification signs; Business identification signs; Cemeteries; Community facilities; Crematoria; Dual occupancies (attached); Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Forestry; Home businesses; Information and education facilities; Recreation areas; Roads

**4 Prohibited**

Intensive livestock agriculture; Any other development not specified in item 2 or 3

**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.

**2 Permitted without consent**

Home-based child care; Home occupations

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Clause 2.6BB Port Macquarie-Hastings Local Environmental Plan 2011

Part 2 Land Use Table

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### 3 Permitted with consent

Attached dwellings; Boarding houses; Business identification signs; Child care centres; Community facilities; Dwelling houses; Group homes; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

### 4 Prohibited

Agriculture; Air transport facilities; Amusement centres; Backpackers' accommodation; Boat repair facilities; Bulky goods premises; Business premises; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Mining (open cut); Mortuaries; Office premises; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Service stations; Sewerage systems; Sex services premises; Signage; 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; Water storage facilities; Water treatment facilities; Wholesale supplies

## Zone R2 Low Density Residential

### 1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for low density housing that does not compromise the environmental, scenic or landscape qualities of land.

### 2 Permitted without consent

Home-based child care; Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Cemeteries; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Educational establishments; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Information and education facilities; Places of public worship; Recreation areas; Roads; Water recreation structures

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone R3 Medium Density Residential****1 Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Group homes; Multi dwelling housing; Neighbourhood shops; Places of public worship; Roads; Seniors housing; Any other development not specified in item 2 or 4

**4 Prohibited**

Agriculture; Air transport facilities; Amusement centres; Boat repair facilities; Bulky goods premises; Business premises; Car parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies;

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Part 2 Land Use Table

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Marinas; Mining (open cut); Mortuaries; Office premises; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Semi-detached dwellings; Service stations; Sewerage systems; Sex services premises; Shop top housing; Signage; 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

### Zone R4 High Density Residential

#### 1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for tourist and visitor accommodation in key tourist precincts of urban areas of the Council area, while also encouraging increased population levels.
- To encourage development that has regard to the desired future character of streets and supports active and safe uses at pedestrian level.

#### 2 Permitted without consent

Home-based child care; Home occupations

#### 3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Food and drink premises; Neighbourhood shops; Places of public worship; Residential flat buildings; Roads; Shop top housing; Any other development not specified in item 2 or 4

#### 4 Prohibited

Agriculture; Air transport facilities; Amusement centres; Attached dwellings; Boat repair facilities; Bulky goods premises; Business premises; Car parks; Caravan parks; Cemeteries; Charter and tourism

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boating facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Mining (open cut); Mortuaries; Office premises; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Retail premises; Rural industries; Rural supplies; Rural workers' dwellings; Semi-detached dwellings; Service stations; Sewerage systems; Sex services premises; Signage; 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

### **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**

Bed and breakfast accommodation; Dual occupancies (attached); Dwelling houses; Roads; Secondary dwellings; Seniors housing; Any other development not specified in item 2 or 4

#### **4 Prohibited**

Agriculture; Air transport facilities; Amusement centres; Boat repair facilities; Bulky goods premises; Business premises; Car parks; Charter and tourism boating facilities; Correctional centres; Crematoria;

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Depots; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Mining (open cut); Mortuaries; Office premises; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Rural supplies; Service stations; Sewerage systems; Sex services premises; Signage; Storage premises; Timber and building supplies; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource management facilities; Water treatment facilities; Wholesale supplies

### 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 developments make a positive contribution to the streetscape and contribute to a safe public environment.
- To provide a focal point for the neighbourhood community.

#### 2 Permitted without consent

Home-based child care; Home occupations

#### 3 Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Neighbourhood shops; Roads; Shop top housing; Any other development not specified in item 2 or 4

#### 4 Prohibited

Agriculture; Air transport facilities; Boat repair facilities; Bulky goods premises; Caravan parks; Cemeteries; Correctional centres; Crematoria; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Landscape and garden supplies; Marinas; Mining (open cut); Mortuaries; Port

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facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Roadside stalls; Rural industries; Rural supplies; Sewerage systems; Sex services premises; Storage premises; Timber and building supplies; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

## **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 developments make a positive contribution to the streetscape and contribute to a safe public environment.

### **2 Permitted without consent**

Home-based child care; Home occupations

### **3 Permitted with consent**

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hostels; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

### **4 Prohibited**

Agriculture; Air transport facilities; Boat repair facilities; Caravan parks; Cemeteries; Correctional centres; Crematoria; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industries; Marinas; Mining (open cut); Mortuaries; Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle

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body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

### Zone B3 Commercial Core

#### 1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new residential accommodation and tourist and visitor accommodation within the zone does not conflict with the primary function of the centre for retail and business use.
- To provide for the retention and creation of view corridors and pedestrian links throughout the Greater Port Macquarie city centre.

#### 2 Permitted without consent

Home-based child care; Home occupations

#### 3 Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Roads; Shop top housing; Any other development not specified in item 2 or 4

#### 4 Prohibited

Agriculture; Air transport facilities; Boat repair facilities; Caravan parks; Cemeteries; Correctional centres; Crematoria; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mining (open cut); Mortuaries; Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair



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workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

**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 developments make a positive contribution to the public domain and streetscape.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Retail premises; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

**4 Prohibited**

Agriculture; Air transport facilities; Boat repair facilities; Bulky goods premises; Caravan parks; Cemeteries; Crematoria; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Highway service centres; Home occupations (sex services); Industries; Marinas; Mining (open cut); Mortuaries; Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities

**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.

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- To minimise conflict between land uses within the zone and with adjoining zones.
- To ensure that new developments make a positive contribution to the public domain and streetscape.

### 2 Permitted without consent

Nil

### 3 Permitted with consent

Child care centres; Food and drink premises; Kiosks; Light industries; Neighbourhood shops; Passenger transport facilities; Roads; Self storage units; Warehouse or distribution centres; Any other development not specified in item 2 or 4

### 4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Amusement centres; Boat repair facilities; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Marinas; Mining (open cut); Office premises; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Waste or resource management facilities; Water supply systems

## Zone B7 Business Park

### 1 Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

- To ensure that development does not conflict with the hierarchy of business and retail centres in the Port Macquarie-Hastings region and the role of the Greater Port Macquarie Central Business District as the focal point for subregional functions and service delivery.

## **2 Permitted without consent**

Nil

## **3 Permitted with consent**

Child care centres; Light industries; Liquid fuel depots; Neighbourhood shops; Office premises; Passenger transport facilities; Roads; Self storage units; Take away food and drink premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

## **4 Prohibited**

Agriculture; Airports; Boat repair facilities; Bulky goods premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Funeral chapels; Funeral homes; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mining (open cut); Recreation areas; Registered clubs; Research stations; Residential accommodation; Retail premises; Rural industries; Rural supplies; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Waste or resource management facilities; Water recreation structures

## **Zone IN1 General Industrial**

### **1 Objectives of zone**

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- 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.

### **2 Permitted without consent**

Nil

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### **3 Permitted with consent**

Depots; Freight transport facilities; Kiosks; Light industries; Medical centres; Neighbourhood shops; Pubs; Roads; Take away food and drink premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

### **4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Amusement centres; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Child care centres; Crematoria; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Function centres; Hazardous industries; Hazardous storage establishments; Health services facilities; Heavy industries; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Information and education facilities; Marinas; Offensive industries; Offensive storage establishments; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Retail premises; Schools; Tourist and visitor accommodation; Water recreation structures; Water storage facilities

## **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.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Depots; Light industries; Medical centres; Neighbourhood shops; Pubs; Roads; Take away food and drink premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

**4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Bulky goods premises; Caravan parks; Cemeteries; Child care centres; Correctional centres; Crematoria; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry; Freight transport facilities; Funeral chapels; Funeral homes; Function centres; Hazardous storage establishments; Health services facilities; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Marinas; Offensive storage establishments; Office premises; Passenger transport facilities; Places of public worship; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Retail premises; Rural industries; Schools; Sewerage systems; Tourist and visitor accommodation; Waste disposal facilities; Water recreation structures; Water storage facilities

**Zone IN3 Heavy Industrial****1 Objectives of zone**

- To provide suitable areas for those industries that need to be separated from other land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of heavy 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.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Depots; Freight transport facilities; Hazardous industries; Hazardous storage establishments; Heavy industries; Kiosks; Offensive industries; Offensive storage establishments; Roads; Take away food and drink premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

**4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Amusement centres; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Crematoria; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm

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buildings; Function centres; Health services facilities; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industrial retail outlets; Information and education facilities; Landscape and garden supplies; Light industries; Marinas; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Retail premises; Rural supplies; Self-storage units; Timber and building supplies; Tourist and visitor accommodation; Vehicle sales or hire premises; Veterinary hospitals; Water recreation structures; Water storage facilities; Wholesale supplies

### Zone IN4 Working Waterfront

#### 1 Objectives of zone

- To retain and encourage waterfront industrial and maritime activities.
- To identify sites for maritime purposes and for activities that require direct waterfront access.
- To ensure that development does not have an adverse impact on the environmental and visual qualities of the foreshore.
- To encourage employment opportunities.
- To minimise any adverse effect of development on land uses 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.

#### 2 Permitted without consent

Nil

#### 3 Permitted with consent

Boat launching ramps; Boat repair facilities; Jetties; Kiosks; Light industries; Roads; Take away food and drink premises; Any other development not specified in item 2 or 4

#### 4 Prohibited

Advertising structures; Agriculture; Airstrips; Amusement centres; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Child care centres; Community facilities; Correctional centres; Crematoria; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Forestry;

Function centres; Hazardous industries; Health services facilities; Heavy industries; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industrial retail outlets; Information and education facilities; Landscape and garden supplies; Marinas; Mortuaries; Offensive industries; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Retail premises; Rural industries; Rural supplies; Service stations; Sewerage systems; Sex services premises; Storage premises; Timber and building supplies; Tourist and visitor accommodation; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water storage facilities; Wholesale supplies

### **Zone SP1 Special Activities**

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

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

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

Nil

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

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

#### **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone SP2 Infrastructure**

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

- To provide for infrastructure and related uses.

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- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Roads

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone SP3 Tourist**

### **1 Objectives of zone**

- To provide for a variety of tourist-oriented development and related uses.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Amusement centres; Building identification signs; Business identification signs; Car parks; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Educational establishments; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Heliports; Information and education facilities; Kiosks; Marinas; Medical centres; Neighbourhood shops; Passenger transport facilities; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Roads; Service stations; Tourist and visitor accommodation; Water recreation structures

### **4 Prohibited**

Any development not specified in item 2 or 3



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## **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; Child care centres; Community facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Kiosks; Marinas; 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

## **Zone RE2 Private Recreation**

### **1 Objectives of zone**

- To enable land to be used for private 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; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Emergency services facilities; Environmental

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facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Kiosks; Marinas; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restaurants; Roads; Take away food and drink premises; Water recreation structures

#### 4 Prohibited

Any development not specified in item 2 or 3

### Zone E1 National Parks and Nature Reserves

#### 1 Objectives of zone

- To enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.

#### 2 Permitted without consent

Uses authorised under the *National Parks and Wildlife Act 1974*

#### 3 Permitted with consent

Nil

#### 4 Prohibited

Any development not specified in item 2 or 3

### 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.
- To protect coastal wetlands and littoral rainforests.
- To protect land affected by coastal processes and environmentally sensitive land.
- To prevent development that adversely affects, or would be adversely affected by, coastal processes.

- 
- To enable development of public works and environmental facilities where such development would not have an overall detrimental impact on ecological, scientific, cultural or aesthetic values.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

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**

Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Home-based child care; Home businesses; Horticulture; Information and education facilities; Kiosks; 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

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### Zone E4 Environmental Living

#### 1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

#### 2 Permitted without consent

Home occupations

#### 3 Permitted with consent

Backpackers' accommodation; Bed and breakfast accommodation; Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Educational establishments; Emergency services facilities; Environmental facilities; Environmental protection works; Home-based child care; Home businesses; Information and education facilities; Places of public worship; Recreation areas; Research stations; Roads; Water recreation structures

#### 4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

### Zone W1 Natural Waterways

#### 1 Objectives of zone

- To protect the ecological and scenic values of natural waterways.
- To prevent development that would have an adverse effect on the natural values of waterways in this zone.
- To provide for sustainable fishing industries and recreational fishing.

#### 2 Permitted without consent

Nil

#### 3 Permitted with consent

Aquaculture; Building identification signs; Business identification signs; Environmental facilities; Environmental protection works; Jetties; Research stations

**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 W2 Recreational Waterways**

**1 Objectives of zone**

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Aquaculture; Boat sheds; Building identification signs; Business identification signs; Charter and tourism boating facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Kiosks; Marinas; Moorings; Passenger transport facilities; Recreation areas; Roads; Water recreation structures

**4 Prohibited**

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

**Zone W3 Working Waterways**

**1 Objectives of zone**

- To enable the efficient movement and operation of commercial shipping, water-based transport and maritime industries.
- To promote the equitable use of waterways, including appropriate recreational uses.
- To minimise impacts on ecological values arising from the active use of waterways.
- To provide for sustainable fishing industries.

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### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Boat repair facilities; Boat sheds; Building identification signs; Business identification signs; Charter and tourism boating facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Freight transport facilities; Helipads; Marinas; Moorings; Passenger transport facilities; Port facilities; Water recreation structures

### **4 Prohibited**

Any development not specified in item 2 or 3

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## 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* or, if there are no such relevant provisions, must be structurally adequate, 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*.
  - (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.
  - (5) To be exempt development, the development must:
    - (a) be installed in accordance with the manufacturer's specifications, if applicable, and

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- (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.

- (6) A heading to an item in Schedule 2 is 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, Climate Change and Water in respect of development that is likely to significantly affect a threatened 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.
- (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.
- (5) A heading to an item in Schedule 3 is 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*,

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Part 3 Exempt and complying development

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- (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,
- (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,
  - (c) to minimise the fragmentation of rural land suitable for sustainable primary production,
  - (d) to protect high ecological, scientific, cultural or aesthetic values of land in environmental protection zones.
- (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.

### **4.1A Exceptions to minimum lot sizes for certain residential development**

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) This clause applies to development on land in the following zones:
  - (a) Zone R1 General Residential,
  - (b) Zone R3 Medium Density Residential,
  - (c) Zone R4 High Density Residential.
- (3) Development consent may be granted to a single development application for development to which this applies that is both of the following:
  - (a) the subdivision of land into 2 or more lots,
  - (b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.

## 2011 No 84

Clause 4.1B Port Macquarie-Hastings Local Environmental Plan 2011

Part 4 Principal development standards

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### 4.1B Minimum subdivision lot sizes for certain split zones

- (1) The objectives of this clause are as follows:
  - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,
  - (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.
- (2) This clause applies to each lot (an original lot) that contains:
  - (a) land in a residential, business or industrial zone, and
  - (b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU6 Transition, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:
  - (a) one of the resulting lots will contain:
    - (i) land in a residential, business or industrial zone that has an area that is not less than the minimum lot size shown on the Lot Size Map in relation to that land, and
    - (ii) all the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU6 Transition, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living, and
  - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

### 4.2 Rural subdivision

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.
- (2) This clause applies to the following rural zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU4 Rural Small Holdings,
  - (d) Zone RU6 Transition.

**Note.** When this Plan was made, it did not include Zone RU4 Rural Small Holdings.
- (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size

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that is less than the minimum size shown on the Lot Size Map in relation to that land.

- (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
- (5) A dwelling cannot be erected on such a lot.

**Note.** A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

#### **4.2A Erection of dwelling houses and dual occupancies in certain rural and environmental protection zones**

- (1) The objectives of this clause are as follows:
  - (a) to minimise unplanned rural residential development,
  - (b) to enable the replacement of lawfully erected dwelling houses in rural and environmental protection zones.
- (2) This clause applies to land in the following zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone RU6 Transition,
  - (d) Zone E3 Environmental Management,
  - (e) Zone E4 Environmental Living.
- (3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies, and on which no dwelling house has been erected, unless the land is:
  - (a) a lot that is at least the minimum lot size specified for that land by the Lot Size Map, or
  - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
  - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
  - (d) an existing holding, or
  - (e) within a lot identified as "Dwelling opportunity" on the Dwelling Opportunity Map, but only if no other dwelling or dual occupancy is erected on that lot.

**Note.** A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

## 2011 No 84

Clause 4.2B Port Macquarie-Hastings Local Environmental Plan 2011

Part 4 Principal development standards

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- (4) Land ceases to be an existing holding for the purposes of subclause (3) (d) if an application for development consent referred to in that subclause is not made in relation to that land before 2 years after the commencement date of this Plan.
- (5) Despite subclause (3), development consent may be granted for the erection of a dwelling house on land to which this clause applies if:
- (a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
  - (b) the land would have been a lot referred to in subclause (3) had it not been affected by:
    - (i) a minor realignment of its boundaries that did not create an additional lot, or
    - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.
- (6) In this clause:
- existing holding** means land that:
- (a) was a holding on 26 May 1967, and
  - (b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,
- whether or not there has been a change in the ownership of the holding since 26 May 1967, and includes any other land adjoining that land acquired by the owner since 26 May 1967.
- holding** means all adjoining land, even if separated by a road or railway, held by the same person or persons.

### 4.2B Strata or community title subdivisions in certain rural, residential and environmental protection zones

- (1) The objective of this clause is to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements.
- (2) This clause applies to land in the following zones that is used, or proposed to be used, for residential accommodation or tourist and visitor accommodation:
- (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape,
  - (c) Zone R2 Low Density Residential,
  - (d) Zone R5 Large Lot Residential,

- (e) Zone E2 Environmental Conservation,
  - (f) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the subdivision of a lot to which this clause applies for a strata plan or community title scheme that would create lots below the minimum size shown on the Lot Size Map for the land.
- (4) Despite subclause (3), development consent may be granted for the subdivision of a lot for a community title scheme on land in Area 1 at Sancrox, as shown edged blue on the Lot Size Map, if:
- (a) each lot size will be at least 4,000 square metres, and
  - (b) each lot will be served by a co-operative scheme for the common disposal of effluent.

#### **4.3 Height of buildings**

- (1) The objectives of this clause are as follows:
- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
  - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
  - (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,
  - (d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

#### **4.4 Floor space ratio**

- (1) The objectives of this clause are as follows:
- (a) to regulate density of development and generation of vehicular and pedestrian traffic,
  - (b) to encourage increased building height and site amalgamation at key locations,
  - (c) to provide sufficient floor space for high quality development for the foreseeable future,
  - (d) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

## 2011 No 84

Clause 4.5 Port Macquarie-Hastings Local Environmental Plan 2011

Part 4 Principal development standards

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

#### (1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,
- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
  - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
  - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
  - (iii) require community land and public places to be dealt with separately.

#### (2) Definition of “floor space ratio”

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

#### (3) Site area

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

#### (4) Exclusions from site area

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

#### (5) Strata subdivisions

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only



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to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

## 2011 No 84

Clause 4.6 Port Macquarie-Hastings Local Environmental Plan 2011

Part 4 Principal development standards

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(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

### 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
  - (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

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- (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 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living 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.
- Note.** When this Plan was made, it did not include Zone RU4.
- (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,
  - (ca) clause 6.1, 6.2 or 6.3.

## 2011 No 84

Clause 5.1 Port Macquarie-Hastings Local Environmental Plan 2011

Part 5 Miscellaneous provisions

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## 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 "Local Road"	Council
Zone R1 General Residential and marked "School"	Minister for Education and Training
Zone RE1 Public Recreation and marked "Local Road"	Council
Zone SP2 Infrastructure and marked "Local Road"	Council
Zone SP2 Infrastructure and marked "Sewerage"	Council

Type of land shown on Map	Authority of the State
Zone SP3 Tourist and marked "Local Road"	Council
Zone E2 Environmental Conservation and marked "Environment Protection"	Council

- (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 public purposes

- (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.

Column 1 Land	Column 2 Development
Zone R1 General Residential and marked "School"	Schools
Zone R1 General Residential and marked "Local road"	Earthworks, Roads
Zone SP2 Infrastructure and marked "Local road"	Earthworks, Roads
Zone SP2 Infrastructure and marked "Sewerage"	Earthworks, Roads
Zone SP3 Tourist and marked "Local road"	Earthworks, Roads
Zone RE1 Public Recreation and marked "Local road"	Earthworks, Recreation areas
Zone E2 Environmental Conservation and marked "Environmental protection"	Nil

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Clause 5.2 Port Macquarie-Hastings Local Environmental Plan 2011

Part 5 Miscellaneous provisions

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### 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
  - (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

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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:
  - (a) 100 metres from any zone boundary shared with Zone RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry, or
  - (b) 20 metres from any other zone boundary.
- (3) This clause does not apply to:
  - (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone 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.

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Clause 5.4 Port Macquarie-Hastings Local Environmental Plan 2011

Part 5 Miscellaneous provisions

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(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home 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 80 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 200 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 20 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) 25% 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) Development 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

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Clause 5.5 Port Macquarie-Hastings Local Environmental Plan 2011

Part 5 Miscellaneous provisions

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- (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
    - (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) Development 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**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that architectural roof features to which this clause applies are decorative elements only,
  - (b) to ensure that the majority of the roof features are contained within the prescribed building height,
  - (c) to facilitate quality urban design by enabling the design of buildings to include roof features that enhance the appearance of buildings.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
  - (a) the architectural roof feature:
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

#### **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).

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### 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.

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- (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.
- (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

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Part 5 Miscellaneous provisions

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- (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 Port Macquarie-Hastings, 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

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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
- (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 with or without consent, or that is exempt development, 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.

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Clause 6.1 Port Macquarie-Hastings Local Environmental Plan 2011

Part 6 Urban release areas

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### **Part 6 Urban release areas**

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

- (1) 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.
- (2) 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.
- (3) Subclause (2) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot to be created by a subdivision on land that was the subject of a previous development consent granted 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.
- (4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).

#### **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.

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**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 and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (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,

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Clause 6.4 Port Macquarie-Hastings Local Environmental Plan 2011

Part 6 Urban release areas

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- (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.

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## 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 more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 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 and 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 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.
- (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.

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Clause 7.1 Port Macquarie-Hastings Local Environmental Plan 2011

Part 7 Additional local provisions

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- (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 Earthworks

- (1) The objectives of this clause are as follows:
  - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
  - (b) to allow earthworks of a minor nature without separate development consent.
- (2) Development consent is required for earthworks unless:
  - (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or
  - (b) the work is ancillary to other development for which development consent has been given.

- (3) Before granting development consent for earthworks, the consent authority must consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
  - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
  - (c) the quality of the fill or the soil to be excavated, or both,
  - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
  - (e) the source of any fill material and the destination of any excavated material,
  - (f) the likelihood of disturbing relics,
  - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

**Note.** The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

### 7.3 Flood planning

- (1) The objectives of this clause are as follows:
- (a) to minimise the flood risk to life and property associated with the use of land,
  - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
  - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to:
- (a) land that is shown as "Flood planning area" on the Flood Planning Map, and
  - (b) other land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
- (a) is compatible with the flood hazard of the land, and
  - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

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Clause 7.4 Port Macquarie-Hastings Local Environmental Plan 2011

Part 7 Additional local provisions

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- (c) incorporates appropriate measures to manage risk to life from flood, and
  - (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
  - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7 347 54760) published in 2005 by the NSW Government, unless it is otherwise defined in this clause.

### 7.4 Floodplain risk management

- (1) The objectives of this clause are as follows:
- (a) in relation to developments with particular evacuation or emergency response issues—to enable the evacuation of land subject to flooding above the flood planning level,
  - (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.
- (2) This clause applies to:
- (a) land between the flood planning area and the line that is shown as the probable maximum flood level on the Flood Planning Map, and
  - (b) land surrounded by the flood planning area, but does not apply to land below the flood planning level.
- (3) Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development incorporates appropriate measures to manage risk to life from flood:
- (a) caravan parks,
  - (b) correctional facilities,
  - (c) emergency services facilities,
  - (d) group homes,
  - (e) hospitals,
  - (f) residential care facilities,
  - (g) tourist and visitor accommodation.



- (4) In this clause, *probable maximum flood* has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7 347 54760) published in 2005 by the NSW Government

### 7.5 Koala habitat

- (1) The objective of this clause is to ensure that development is designed to retain koala habitat.
- (2) This clause applies to land that is shown as “Koala habitat area” on the Koala Habitat Map.
- (3) Development consent must not be granted for development on land to which this applies unless the consent authority is satisfied that the development is consistent with the relevant provisions of any adopted plan of management prepared pursuant to *State Environmental Planning Policy No 44—Koala Habitat Protection*.
- (4) Development consent must not be granted for a subdivision of land to which this clause applies unless the consent authority 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).

**Note.** The land shown as “Koala Habitat” does not identify all koala habitat areas within the land to which this Plan applies.

### 7.6 Coastline hazards

- (1) The objectives of this clause are as follows:
  - (a) to avoid significant adverse impacts from coastal hazards,
  - (b) to enable evacuation of coastal risk areas in an emergency,
  - (c) to ensure uses are compatible with coastal risks.
- (2) This clause applies to land that is shown as “Coastal Erosion Risk” on the Coastal Erosion Map.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development:
  - (a) will significantly adversely affect coastal hazards, and
  - (b) will result in significant detrimental increases in coastal risks to other development or properties, and
  - (c) will significantly alter coastal hazards to the detriment of the environment, and
  - (d) incorporates appropriate measures to manage risk to life from coastal risks, and
  - (e) avoids or minimises exposure to coastal hazards, and

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- (f) makes provision for relocation, modification or removal of the development to adapt to coastal hazards and sea level rise planning benchmarks for New South Wales.
- (4) A word or expression used in this clause has the same meaning as it has in the *NSW Coastal Planning Guidelines: Adapting to Sea Level Rise* (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.
- (5) In this clause, **coastal hazard** has the same meaning as it has in the *Coastal Protection Act 1979*.

### 7.7 Airspace operations

- (1) The objectives of this clause are as follows:
  - (a) to provide for the effective and ongoing operation of the Port Macquarie Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or the Operations Surface for that airport,
  - (b) to protect the community from undue risk from that operation.
- (2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or the Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.
- (3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that:
  - (a) the development will penetrate the Limitation or the Operations Surface but it has no objection to its construction, or
  - (b) the development will not penetrate the Limitation or the Operations Surface.
- (4) The consent authority must not grant development consent for the development, if the relevant Commonwealth body advises that the development will penetrate the Limitation or the Operations Surface and should not be constructed.
- (5) In this clause:
  - Limitation or Operations Surface** means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Port Macquarie Airport under Commonwealth legislation
  - relevant Commonwealth body** means the body, under Commonwealth legislation, that is responsible for development approvals for

development that penetrates the Limitation or Operations Surface for the Port Macquarie Airport.

### 7.8 Development in areas subject to aircraft noise

- (1) This clause applies to development that:
  - (a) is on land that:
    - (i) is near an airport, and
    - (ii) is in an ANEF contour of 20 or greater, and
  - (b) the consent authority considers is likely to be adversely affected by aircraft noise.
- (2) Before determining a development application for development to which this clause applies, the consent authority:
  - (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
  - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*, and
  - (c) must be satisfied that the development will meet AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction* with respect to interior noise levels for the purposes of:
    - (i) if the development will be in an ANEF contour of 20 or greater—child care centres, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation, and
    - (ii) if the development will be in an ANEF contour of 25 or greater—business premises, hostels, hotel or motel accommodation, office premises or retail premises.
- (3) In this clause:
 

***airport*** means a civil, military or joint civil and military airport.

***ANEF contour*** means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for that airport prepared by the Department of the Commonwealth responsible for airports.

### 7.9 Development subject to acoustic controls

- (1) The objective of this clause is to ensure that development for residential or tourist purposes, or for any other purpose involving regular human

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occupation, on land subject to significant exposure to noise (including road traffic noise) incorporates appropriate mitigation measures.

- (2) This clause applies to the land identified as “Subject to acoustic controls” on the Acoustic Controls Map.
- (3) Before granting development consent to development on land to which this clause applies, the consent authority must:
  - (a) consider the location of the development in relation to the criteria set out in *Environmental Criteria for Road Traffic Noise* published by the NSW Environment Protection Authority in May 1999, and
  - (b) be satisfied that the occupants of the development will not be subject to excessive noise, and
  - (c) be satisfied that appropriate noise mitigation measures will be incorporated into the development to reduce noise to an acceptable level.

### 7.10 Erection of rural workers’ dwellings on land in Zones RU1 and RU2

- (1) The objective of this clause is to ensure the provision of adequate accommodation for employees of existing agricultural or rural industries.
- (2) This clause applies to land in the following zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU2 Rural Landscape.
- (3) Development consent must not be granted for the erection of a rural worker’s dwelling on land to which this clause applies unless the consent authority is satisfied that:
  - (a) the development will not impair the use of the land for agricultural and rural industries, and
  - (b) there is a demonstrated economic capacity of the agricultural or rural industry being carried out on the land to support the ongoing employment of rural workers, and
  - (c) the development is necessary considering the nature of the agricultural or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land, and
  - (d) the development will not result in more than 1 rural worker’s dwelling being erected on the land comprising the agricultural or rural industry.

**7.11 Development in Zone B1**

- (1) The objective of this clause is to ensure that proposed large business premises, office premises and retail premises are located within the Greater Port Macquarie Central Business District and other local centres in the region, other than in Zone B1 Neighbourhood Centre.
- (2) Development consent must not be granted to development for the purposes of business premises, office premises or retail premises on land in Zone B1 Neighbourhood Centre if the development would result in a building or premises having a gross floor area of more than 2,000 square metres.

**7.12 Location of sex services premises**

- (1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.
- (2) In deciding whether to grant development consent to development for the purposes of sex services premises, the consent authority must consider the following:
  - (a) if the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land:
    - (i) in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone RE1 Public Recreation, or
    - (ii) used for the purposes of a child care centre, a community facility, a school or a place of public worship,
  - (b) the impact the proposed development and its hours of operation would have on any place, likely to be regularly frequented by children:
    - (i) that adjoins the proposed development, or
    - (ii) that can be viewed from the proposed development, or
    - (iii) from which a person can view the proposed development.

**7.13 Essential services**

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,

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Part 7 Additional local provisions

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- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable road access.

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## Schedule 1 Additional permitted uses

(Clause 2.5)

### 1 Use of certain land at Homedale Road, Kew

- (1) This clause applies to land at Homedale Road, Kew, being part of Lot 1, DP 564615, shown as “Item 1” on the Additional Permitted Uses Map.
- (2) Development for the purposes of a residential community (including for the purposes of dual occupancies, multi dwelling housing, residential flat buildings and community facilities) is permitted with development consent if:
  - (a) the number of lots is no more than 66, and
  - (b) the number of dwellings is no more than 66, and
  - (c) the provision of water and sewerage is on-site and self-contained, and
  - (d) no direct access (other than access for emergency vehicles) is provided to the Pacific Highway, and
  - (e) subdivision on the land is carried out in accordance with the *Community Land Development Act 1989*.

### 2 Use of certain land at 4 and 8 Hayward Street, Port Macquarie

- (1) This clause applies to land at 4 and 8 Hayward Street, Port Macquarie, being Lot 2, DP 33630 and Lot 1, DP 798068, shown as “Item 2” on the Additional Permitted Uses Map.
- (2) Development for the purposes of business premises and office premises is permitted with development consent if:
  - (a) the development retains the existing buildings in their form and style, and
  - (b) any additions conform with the existing form and style of the buildings.

### 3 Use of certain land at the corner of Pacific and Oxley Highways, Thrumster

- (1) This clause applies to land at the corner of the Pacific and Oxley Highways, Thrumster, being Lot 1, DP 1102031, shown as “Item 3” on the Additional Permitted Uses Map.
- (2) Development for the purpose of hotel or motel accommodation is permitted with development consent.

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Schedule 1 Additional permitted uses

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

- (1) This clause applies to land at the corner of the Pacific and Oxley Highways, Thrumster, being Lots 7–11, DP 1137444, shown as “Item 4” on the Additional Permitted Uses Map.
- (2) Development for the purpose of a highway service centre is permitted with development consent.



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## 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. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

**Note 2.** Exempt development may be carried out without the need for development consent under the Act. 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.

### Works in 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 be within an existing cemetery or burial ground.
- (3) Must not disturb human remains, relics, Aboriginal objects in the form of grave goods, or a place of Aboriginal heritage significance.
- (4) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (5) Must not be on land shown as "Coastal erosion risk" on the Coastal Erosion Map.

### Charity bins

- (1) No more than 2 bins in any one location.
- (2) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

### Driveways, pathways etc (commercial or industrial)

- (1) Ancillary commercial and industrial works external to a building, including the carrying out of 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

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### Port Macquarie-Hastings Local Environmental Plan 2011

#### Schedule 2 Exempt development

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- (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 not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (6) Must not be carried out on land that is subject to subsidence, slip or erosion, including land shown as “Coastal erosion risk” on the Coastal Erosion Map.
- (7) Must be located at least 900mm from each property boundary.
- (8) Must not be within the Flood planning area on the Flood Planning Map.
- (9) Must not restrict stormwater flows or redirect stormwater flows to buildings or adjoining properties.
- (10) If adjoining a door, must be at a lower level than the adjoining floor.
- (11) Works must not restrict access to stormwater pipelines.
- (12) Must be at least 40m from a waterway.
- (13) Must not cover or obstruct any sewer inspection shaft, sewer inspection hole or stormwater inspection hole.
- (14) Must not be in a residential or environment protection zone.
- (15) Must not be carried out on a heritage item.

#### Filming

- (1) **Note.** Provision repealed under the Standard Instrument (Local Environmental Plans) Order 2006.
- (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,

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- (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 or used 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,

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#### Schedule 2 Exempt development

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- (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 or use 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 Land and Property Management Authority for the use of Crown land,
  - (n) details of any temporary alteration or addition to any building or work at the location for the purposes of the filming.
- (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:
- (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.

**Lighting (external)**

- (1) Must not be for the lighting of tennis courts or sports grounds.
- (2) Constructed and maintained so that light spill is contained within site and in accordance with AS 4282-1997, *Control of the obtrusive effects of outdoor lighting*.
- (3) Construction and maintenance of lighting at or in vicinity of air transport facilities if consistent with *Manual of Standards (MOS)—Part 139—Aerodromes* published by the Civil Aviation Safety Authority (established under the *Civil Aviation Act 1988* of the Commonwealth).

**Signage, advertising structures and displays**

- (1) Must relate to the premises on which it is situated.
- (2) Must not cover mechanical ventilation inlet or outlet vents.
- (3) Must relate to a lawful use of, and carried out on, the land.
- (4) If it has red, amber, green or blue lighting, must not be erected within 50m of traffic control signals.
- (5) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes**

- (1) May only be erected, used, altered or added to in connection with filming that is exempt development.
- (2) Temporary structure must not be at the location for more than 30 days within a 12-month period.
- (3) Alteration or addition to the building or work must not remain in place for more than 30 days within a 12-month period.
- (4) Temporary structure, or building or work in its altered or added to form, must not be accessible to the public.

**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.

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#### Schedule 2 Exempt development

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- (3) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (4) Maximum site area—1ha.
- (5) Maximum cut and fill—0.6m.
- (6) Must not have lighting installed.
- (7) Must not interfere with any approved on-site effluent disposal treatment system.
- (8) Must be located behind the building line to the primary frontage.
- (9) Must not be carried out on land containing a heritage item.

#### **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.
- (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.

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- (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.

**Wind energy generating works (other than in Zone RU1, RU2, RU3 or RU4)**

- (1) Maximum height above ground level (existing)—2.7m, or the maximum height specified on the Obstacle Limitation Surface Map, whichever is less.
- (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 lot boundary.
- (5) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (6) Must not be carried out on land that is shown as “Coastal erosion risk” on the Coastal Erosion Map.
- (7) Must not be carried out on a heritage item.
- (8) Must be located at least 1m from a registered easement, sewer main or water main.

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Port Macquarie-Hastings Local Environmental Plan 2011

Schedule 3 Complying development

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### Schedule 3 Complying development

(Clause 3.2)

**Note.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application. This Schedule contains additional complying development not specified in that Policy.

#### Part 1 Types of development

##### Industrial buildings, warehouse or distribution centres

(1) **Application and general**

- (a) Must be on land in an industrial zone.
- (b) Must be a lawful use or an addition for administration or storage uses carried out in conjunction with a lawful use of the building.
- (c) Must not be within 50m of land in a residential zone.
- (d) External areas must not be occupied for the purposes of storage or manufacturing or any other like activity.
- (e) Must not be within the flood planning area on the Flood Planning Area Map.
- (f) Does not involve ancillary retailing, bulky goods premises, or the manufacture or preparation of food.
- (g) Must be located at least 1m from a registered easement, sewer main or water main.
- (h) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (i) Must not be carried out on land that is subject to subsidence, slip or erosion, including land that is shown as “Coastal Erosion Risk” on the Coastal Erosion Map.

(2) **Bulk and scale**

- (a) Maximum gross floor area for all buildings on the site—1,000m<sup>2</sup>.
- (b) Maximum wall height (excluding parapet of up to 1.2m)—9m.
- (c) Maximum roof pitch—10°.

(3) **Setbacks and siting**

Minimum development setback—10m from a classified 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 covering a minimum of two-thirds of 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) Must provide car parking as follows:
  - (i) for industries—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) for warehouse or distribution centres—1 car parking space per 300m<sup>2</sup> of gross floor area.
- (c) In relation to additions, 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.
- (d) The design and construction of the vehicular access and on-site manoeuvring must comply with Australian Standard AS 2890.2-2002, *Parking facilities—Off-street commercial vehicle facilities*, including provision for forward entry and exit by a medium rigid vehicle.
- (e) The area between the landscaping and the building line may be used for car parking, but must not be used for commercial vehicle manoeuvring, parking, loading or unloading.

(8) **Services**

- (a) Must be serviced with reticulated water (dual reticulated where available), sewerage, 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*.
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Schedule 3 Complying development

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- (d) If required—stormwater drainage must be connected to the Council’s drainage system in accordance with the Council’s adopted *AUS-SPEC 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) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- (11) 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 (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.

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- (7) Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
  - (8) Must be constructed so that it drains directly into the existing on-site stormwater drainage system.
  - (9) Perimeter protective netting must be installed in accordance with the manufacturer's specifications.

## **Part 2 Complying development certificate conditions**

**Note 1.** Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and this Plan.

### **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 development 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**

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.

### **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

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#### Schedule 3 Complying development

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Council at least 48 hours (in writing) or 24 hours (by telephone) 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 Saturday, and no work is to be carried out on Sundays or public holidays.

#### **6 Survey certificate**

- (1) 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,
  - (b) on 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).
- (2) In relation to land shown as “Flood planning area” on the Flood Planning Map, the survey must confirm that the floor level complies with the floor level requirements for the flood planning level in that location.

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

(Clause 5.2)

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

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	Nil

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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Any trusts etc not discharged</b>
Nil	Nil	Nil

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

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
Nil	Nil

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Schedule 5 Environmental heritage

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### Schedule 5 Environmental heritage

(Clause 5.10)

#### Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Bagnoo	Thone River Bridge	Oxley Highway	Lots 1 and 2, DP 1040444	Local	I036
Beechwood	School building	614 Beechwood Road	Lot 1, DP 191755; Lot 141, DP 754446	Local	I107
Beechwood	Uniting Church building	621 Beechwood Road	Part Lot 4, DP 829478	Local	I108
Beechwood	Cemetery	Pappinbarra Road (corner Koree Island Road)	Reserve No 15482; Lot 7001, DP 1058471; Lot 7013, DP 1058470; Lot 7009, DP 1058473	Local	I012
Bellangry	Dwelling house and graves (Bellangry House)	McCuddens Road	Lot 137, DP 754406	Local	I110
Camden Head	Pilot station complex	Camden Head Road	Lot 300, DP 39665	Local	I114
Camden Head	Graves	Camden Head Road	Reserve No 78791	Local	I115
Comboyne	Cemetery	O'Sullivan's Lane	Reserve No 48917; Lot 7004, DP 1024270	Local	I117
Comboyne	Former school house and school master's residence	3763 Wingham Road	Lot 61, DP 7454407	Local	I162

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Cooperabung	Timber mill	320 Cooperabung Drive	Lot 1, DP 512380	Local	I155
Ellenborough	Cemetery	Oxley Highway	Reserve No 19356; Lot 7010, DP 1001223	Local	I118
Ellenborough	Police Station building and associated mature trees	Via Oxley Highway	Reserve No 59933; Lot 7017, DP 96246	Local	I119
Hérons Creek	Saint Mary The Virgin Church	Blackbutt Road	Lot 2, DP 837307	Local	I046
Kendall	Cemetery	Albert Street	Lot 9, DP 112083; Lots 7016 and 7017, DP 1051155	Local	I125
Kendall	Railway bridge	Camden Haven River		Local	I120
Kendall	ANZAC War Memorial	Comboyne Street (corner Albert Street)	Road reserve	Local	I121
Kendall	Kendall School of Arts (Community) Hall	19 Comboyne Street (corner Albert Street)	Lot 36, DP 754418	State	I031
Kendall	Dwelling house	34-36 Comboyne Street	Lots 13 and 14, Section A, DP 5678	Local	I122
Kendall	All Saints Anglican Church	46 Comboyne Street	Lot 1, DP 574137	Local	I123
Kendall	Former school master's house	48 Comboyne Street	Lot 2, DP 838179		I163
Kendall	Roman Catholic Church building	Laurel Street	Lot 1, DP 717923	Local	I128

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## Schedule 5 Environmental heritage

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kendall	Uniting Church building	5 Laurel Street	Lot 1, DP 948383	Local	I127
Kendall	Dwelling house	9 Laurel Street	Lot 1, DP 339359	Local	I126
Kendall	School building (built 1880)	Logans Crossing Road (corner Comboyne Street)	Lot 51, DP 754418	Local	I124
Kendall	Railway Station (platform, main building and detached men's toilets)	22 Railway Street	Lot 1, DP 881120	Local	I130
Kendall	Dwelling house	23 Railway Street	Lot 40, Section B, DP 7734	Local	I129
Kew	Chimneys (remains of mill workers' cottages)	Homedale Road	Lot 1, DP 564615	Local	I161
Kew	Royal Hotel	2 Ocean Drive (corner Pacific Highway)	Lot 69, DP 1103700	Local	I132
Kew	Police Station building	20 Tathra Road	Lot 1, DP 918100	Local	I131
Kindee-Long Flat	Kindee Road suspension bridge (part)	Kindee Road, over Hastings River, between Kindee and Long Flat		Local	I011
Laurieton	Holy Trinity Church	56 Bold Street	Lot 1, Section 17, DP 758603	Local	I133
Laurieton	Laurieton School of Arts building	58 Bold Street (corner Laurie Street)	Lots 1 and 2, DP 525966	State	I017



Suburb	Item name	Address	Property description	Significance	Item no
Laurieton	ANZAC War Memorial (monument and artillery piece)	Castle Street (corner Bold Street and Kew Road)	Reserve No 84064; Lot 7032, DP 1001405	Local	I134
Laurieton	Former Post Office and dwelling house buildings	5 Laurie Street (corner Lake Street)	Lot 2, DP 776806	Local	I137
Laurieton	Cemetery	Ocean Drive	Lot 1, DP 668477; Lot 1, DP 668573 and Crown land	Local	I136
Mount Seaview	Road Bridge	Oxley Highway, over Ralfes Creek		Local	I033
North Haven	Dwelling house	623 Ocean Drive	Lot 1, DP 20780	Local	I140
North Haven	Dwelling house	639 Ocean Drive	Lot 9, DP 20780	Local	I143
Pembroke	Community Hall	979 Pembroke Road	Lot 1, DP 225061	Local	I164
Port Macquarie	Hibbard Slipway	Boundary Street (corner Narimba Close)	Lots 693 and 694, DP 729765; Lots 1 and 2, DP 774887; Lot 699, DP 822635	Local	I019
Port Macquarie	First (Allman Hill) Burying Ground	Clarence Street	Reserve No 82916; Lot 7025, DP 1060950	State	I016
Port Macquarie	Hastings Historical Society Museum	22 Clarence Street	Lot 1, DP 744652	State	I015
Port Macquarie	“Garrison” building	26 Clarence Street (corner Hay Street)	Lot 1, DP 630109	Local	I014

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Port Macquarie	Former Courthouse building and mature Norfolk Island pine trees	31–35 Clarence Street (corner Hay Street)	Lot 675, DP 722652	State	I013
Port Macquarie	Former Pilots boatshed building	79 Clarence Street	Lot 713, DP 823795	Local	I022
Port Macquarie	Port Macquarie Second Burying Ground	Gordon Street	Vol 787 Fol 730; Crown land	State	I003
Port Macquarie	“Grantham”—dwelling house	Grantham Lane	Lot 1, DP 815326	Local	I007
Port Macquarie	“Elsinor” building	2 Hastings River Drive (corner Gordon Street)	Lot 2, DP 536032	Local	I065
Port Macquarie	“Hamilton House” (former school) and “The Manor House”	188–198 Hastings River Drive	Lot 13, DP 874058	Local	I062
Port Macquarie	Former police station, lockup and residence	Hay Street	Lot 674, DP 722652	Local	I068

Suburb	Item name	Address	Property description	Significance	Item no
Port Macquarie	St Thomas The Apostle Anglican complex, including Church building, Colonial Chapel of Christ the Healer building, Office (former Surgeons Residence and Rectory), Norfolk Island Palms, original access paths and convict retaining walls	Hay Street	Lots A and B, DP 420667; Lot 2, DP 507730; Lot 1, DP 662989; Lot 1, Section 7, DP 785852; Lot 1, Section 7A, DP 758852	State	I004
Port Macquarie	St Agnes Roman Catholic Church building and grounds	Hay Street, with frontage also to Horton Street	Part Lot 2, DP 634711; Part Lots 9 and 10, Section 6, DP 758852	Local	I054
Port Macquarie	Cemetery	Hibbard Drive	Reserve No 9355; Lot 7033, DP 93067	Local	I030
Port Macquarie	Former single-storey Methodist Church building	Horton Street	Lot 10, DP 854235	Local	I073
Port Macquarie	War Memorial	Horton Street (Town Green)	Lot 548, DP 754434; Reserve No 82306, Lot 7048, DP 1070509	Local	I061
Port Macquarie	Macquarie Hotel	8 Horton Street	Lot 1, DP 881805	Local	I052

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Port Macquarie	Ritz Theatre Complex	22–28 Horton Street	Lot 1, DP 631801; Lot 2, DP 631810	Local	I053
Port Macquarie	Westpac Bank building	35 Horton Street	Lot 2, DP 862632	Local	I070
Port Macquarie	ANZ Bank building—original street facade	49 Horton Street	SP 36763	Local	I072
Port Macquarie	Hayward House	102–104 Horton Street	Lot 1, DP 136866; Lot 1, DP 780589	Local	I002
Port Macquarie	Obelisk	Kenny Drive, off Pacific Drive	Reserve No 71183; Lot 7075, DP 1070992	Local	I005
Port Macquarie	“Coolenberg” —dwelling house	60 Lake Road (corner Hill Street)	Lot 1, DP 616008	Local	I069
Port Macquarie	Tacking Point Lighthouse building	Lighthouse Road	Reserve No 1005128; Lots 1 and 2, DP 859841	Local	I009
Port Macquarie	“Roto House” building	Lord Street	Macquarie Nature Reserve	Local	I001
Port Macquarie	“Douglas Vale” dwelling house and grounds	Oxley Highway	Lots 1 and 2, DP 1089895	Local	I075
Port Macquarie	Cemetery	Oxley Highway (corner Widderson Street)	Lots 7056 and 7057, DP 93068	Local	I076
Port Macquarie	“The Cross” navigational marker	Park Street	Reserve adjoining Lot 5, DP 263340	Local	I082
Port Macquarie	Pilots Memorial	William Street (Flagstaff Hill)	Part Reserve No 82916; Lot 467, DP 754434	Local	I077

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Port Macquarie	3 dwelling houses	2-6 William Street	Lot 714, DP 823793	Local	I079
Port Macquarie	Former dwelling house	98 William Street	Lot 2, DP 168128	Local	I081
Rawdon Island	Former school building and teacher's dwelling house	479 Rawdon Island Road	Lot 130, DP 905648	Local	I146
Rawdon Island	Former post office building	489 Rawdon Island Road	Lot 38, DP 754446	Local	I051
Rollands Plains	Cemetery	1685 Rollands Plains Road (adjoining)	Lot 1, DP 668478; Lot 1, DP 668479; Lot 1, DP 668480; Lot C83, DP 754406	Local	I148
Rollands Plains	Road bridge	Upper Rollands Plains Road (Brill Brill Creek)		Local	I147
Rosewood	Crossroads Cemetery	Off Rosewood Road	Lot 1, DP 117677; Lot 1, DP 668476	Local	I040
Telegraph Point	Cemetery	Farrawells Road	Lot 1, DP 579417; Lots 7006 and 7007, DP 1065162; Lot 7004, DP 1065163	Local	I154
Telegraph Point	Road bridge over railway line	Old Butter Factory Road (off Cooperabung Drive)		Local	I153

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Telegraph Point	Former butter factory	12 Old Butter Factory Road (off Cooperabung Drive)	Lot 2, DP 206773	Local	I157
Telegraph Point	Former railway station water tower	Railway land adjoining Rollands Plains Road		Local	I152
Telegraph Point	Shop	50 Rollands Plains Road	Lot 8, DP 243959	Local	I042
Telegraph Point	Shop	54 Rollands Plains Road	Lot 9, DP 243959	Local	I043
Telegraph Point	Railway bridge	Wilson River		Local	I050
Wauchope	Davis Memorial Church building	39 Campbell Street	Book 996 No 955	Local	I085
Wauchope	“Lincoln Hall”—dwelling house	20 Guy Street	Lot 12, DP 569016	Local	I087
Wauchope	Courthouse building (excluding additions)	41 Hastings Street	Part Lot 2, Book 7605 No 3070	Local	I048
Wauchope	Uniting Church building (excluding extensions)	41 Hastings Street	Lot 1, DP 797394	Local	I091
Wauchope	“Sheathers Tractor Shop” building	87 High Street (corner Beechwood Road)	Lot 1, DP 745751	Local	I088
Wauchope	St Joseph’s Convent	King Street	Lot 9, DP 754428	Local	I096

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Wauchope	Cemetery	Oxley Highway	Reserve No 62743; Lots 7018 and 7019, DP 1024927; Lot 7028, DP 1027275; Lot 7001, DP 1027276; Lots 7014 and 7015, DP 1027277; Lots 7020–7022, DP 1027278; Lot 7023, DP 1074949	Local	I098
Wauchope	Former Rawdon Island church building	2325 Oxley Highway (Timbertown Heritage Park)	Lot 114, DP 823802	Local	I095
Wauchope	Memorial Gates	Oxley Lane and Avondale Street (Bain Park)	Lot 7032, DP 1039811	Local	I100
Wauchope	Cheese and butter factory	2 Randall Street	Lot 1, DP 852150; part railway land (SRA leases 12485 and 256187)	Local	I047

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Wauchope	Wauchope Railway Station group, including railway bridge, timber platform face, dwelling house, double-sided railway goods shed and Canary Island palms	Bounded on west by Wallace Street, on east by cheese and butter factory and Randall Street, to north by northern abutments of railway bridge over Hastings River and to south by railway level crossing linking Carrington and High Streets		State	I089
Wauchope	Primary school buildings, mature palms and fencing (excluding additions)	Waugh Street (corner Campbell and Mackay Streets)	Lot 1, DP 795186	Local	I105
Wauchope	Former police dwelling house	16 Young Street (corner Hastings Street)	Part Lot 2, Book 7605 No 3070	Local	I045

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## Part 2 Heritage conservation areas

<b>Name of heritage conservation area</b>	<b>Identification on Heritage Map</b>	<b>Item No</b>
Crosslands Conservation Area	Shown by a yellow outline and identified as "C04"	C04
Karikeree 1 Thrumster Conservation Area	Shown by a yellow outline and identified as "C01"	C01



Name of heritage conservation area	Identification on Heritage Map	Item No
Thrumster Knoll Site	Shown by a yellow outline and identified as "C03"	C03
Wadoo 7 Thrumster Conservation Area	Shown by a yellow outline and identified as "C02"	C02

### Part 3 Archaeological sites

Suburb	Item name	Address	Property description	Significance	Item no
Brill Brill	Former tin mine	Mines Road (Bellangry State Forest)		Local	A149
Camden Head and North Haven	Training wall (parts)	Camden Haven River entrance	Reserve No 78791, Lot 7021, DP 1001334	Local	A113
Doyles River	Former goldmine	Cells Creek	Within Doyles River State Forest	Local	A116
Kendall, Upsalls Creek, Swans Crossing, Lorne and Kerewong	Former timber "Longworth" tramway earthworks	Vicinity of Lorne Road, Kendall and Upsalls Creek; North Branch Road, Upsalls Creek; Swans Crossing; Tipperary Road, Lorne and Kerewong	Lot 16, DP 7031; Lot 1, DP 103012; Lots 1 and 3, DP 546691; Lot 2, DP 552779; Lots 1 and 2, DP 578171; Lot 2, DP 605561; Lot 3, DP 608288; Lots 3 and 4, DP 615924; Lots 1 and 2, DP 623832; Lot 4, DP 631582; Lot 62, DP 665765; Lots 1 and 2, DP 702390; Lots 1 and 2, DP 706292; Lot 1, DP 722759; Lot 1, DP 729808; Lot 11, DP 738204; Lots 1 and 2, DP 748959; Lot 34, DP 754418; Lots 86, 89, 101, 114, 230, 246, 303, 307 and 309, DP 754432; Lots 1 and 2, DP 803201;	Local	A032

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Suburb	Item name	Address	Property description	Significance	Item no
			Lot 1, DP 813891; Lots 1–3, DP 828397; Lot 1, DP 834451; Lot 12, DP 835548; Lots 14–17, DP 838421; Lot 1, DP 1009963; Lots 1 and 2, DP 1074719		
Mount Seaview, Debenham and Doyles River	Former Oxley Highway	Between Oxley Highway (east of Ralfes Creek) and Knodingbul Road, within the localities of Mount Seaview, Debenham, Doyles River and Bulga Forest, and the Parishes of Debenham, Graeme, Hastings and Tobin	Located within or adjoining Lot 82, DP 725042; Lot 81, DP 729764; Lots 28, 30, 41, 44, 50 and 52, DP 753697; Lots 1, 7, 22, 27, 44, 45, 53, 67 and 73, DP 754411; Lot 2, DP 868132; Lot 7002, DP 1058357; Lot 7006, DP 1060322; Reserve No 48885—Lot 7010, DP 1070552; Reserve No 48885—Lot 7007, DP 1075125; Reserve No 48885—Lot 7009, DP 1075125; Cottan-Bimbang National Park	Local	A027
North Shore	“Ballina” — paddlesteamer wreck	Hastings River	Between training walls at river mouth	Local	A020
North Shore and Port Macquarie	Training walls and breakwalls	Hastings River	Reserve No 56221; Lot 7005, DP 1074314; Crown land (46315)	Local	A060
Port Macquarie	Archaeology of early European settlement		Parts of Town Centre and Town Beach precincts	Local	A111
Port Macquarie	Brick stormwater drain	Clarence Street (between Hay and Murray Streets)		Local	A035

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## Schedule 5

Suburb	Item name	Address	Property description	Significance	Item no
Port Macquarie	Port Macquarie Government House site	2 Clarence Street (within School Street)	Lot 1, DP 581307 and road	State	A160
Port Macquarie	Archaeological remains of overseers' cottages and barrel drain	30-42 Clarence Street	Lot 101, DP 1140251	State	A165
Port Macquarie	Part of original Gordon Street Bridge abutments	Gordon Street (adjoining Kooloonbung Creek)	Reserve No 87617— Lot 7006, DP 96366	Local	A058
Port Macquarie	Royal Hotel	2 Horton Street	Lot 3, DP 1040459	Local	A039
Port Macquarie	Convict well	158 Horton Street (corner Gordon Street)	Lot 1, DP 705798	Local	A071
Port Macquarie	Remains of former Tacking Point Lighthouse keeper's dwelling house	Lighthouse Road	Road identified as Lot 2, DP 226861 for dedication purposes	Local	A055
Port Macquarie	Well	Munster Street	Adjoining Lot 659, DP 47332	Local	A008
Port Macquarie	Well	1 Stewart Street (corner Lord Street)	Lot 2, DP 1107888	Local	A029
Port Macquarie	Lake Innes House ruins group (including boathouse and corduroy road sites)	The Ruins Way	Lot 2, DP 826241; part Lake Innes Nature Reserve	State	A006

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<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Port Macquarie	Remnants of stone swale and kerbing	William Street (north side between Hay and Horton Streets)	Within road	Local	A037
Rollands Plains	Former sugar plantation	Rollands Plains Road	Lot 35, DP 831220; enclosed road reservations	Local	A024
Rollands Plains	Historic well	1510 Rollands Plains Road	Lot 2, DP 595996	Local	A025
Yarras	Stone pitched embankment	Vehicular track, Oxley Highway	Lot 4, DP 1095052	Local	A028
Yarras	Stone pitched embankment	7401 and 7038 Oxley Highway (Vehicular track)	Lot 14, DP 7815360; Lot 2, DP 868132 (north side of Oxley Highway only)	Local	A028

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## 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 Local Environmental Plan 2011 Acid Sulfate Soils Map.

**Acoustic Controls Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Acoustic Controls Map.

**Additional Permitted Uses Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Additional Permitted Uses 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.

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Dictionary

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***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.

***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

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- (c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) that has rooms, some or all of which may have private kitchen and bathroom facilities, 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,

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

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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 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

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- (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
  - (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 Erosion Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Coastal Erosion Map.

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**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.

**Dwelling Opportunity Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Dwelling Opportunity Map.

**earthworks** means excavation or filling.

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***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 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.

**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

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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 level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

**Flood Planning Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Flood Planning 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.

**floor space ratio**—see clause 4.5.

**Floor Space Ratio Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Floor Space Ratio 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

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- (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
- (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

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produced. It may consist of or include a hazardous or offensive industry or involve the use of a hazardous or offensive storage establishment.

**Height of Buildings Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Height of Buildings Map.

**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 Local Environmental Plan 2011 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.

**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 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

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- (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
- (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 home 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

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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,

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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 Local Environmental Plan 2011 Koala Habitat Map.

**Land Application Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Land Application Map.

**Land Reservation Acquisition Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 Land Reservation Acquisition Map.

**Land Zoning Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 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.

**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, woollscours and rendering plants.

**Lot Size Map** means the Port Macquarie-Hastings Local Environmental Plan 2011 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.

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**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,

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- (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.
- (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.

**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.

**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

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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 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.

**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,

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(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 or entertainment is provided 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 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,

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- (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** has the same meaning as in the *Registered Clubs Act 1976*, whether or not entertainment is provided at the club.

**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 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, whether or not takeaway meals and beverages or entertainment are also provided.

**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).

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**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.

**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.

***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.

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**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
- (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.

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**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*.

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**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 Local Environmental Plan 2011 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

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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
- (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.