



New South Wales

# Lake Macquarie Local Environmental Plan 2014

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.

CAROLYN McNALLY  
As delegate for the Minister for Planning

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## Lake Macquarie Local Environmental Plan 2014

under the

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### Part 1 Preliminary

#### 1.1 Name of Plan

This Plan is *Lake Macquarie Local Environmental Plan 2014*.

#### 1.1AA Commencement

This Plan commences 28 days after 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 Lake Macquarie City 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 recognise the importance of Lake Macquarie City and its waterways and the coast as an environmental, social, recreational and economic asset to Lake Macquarie City and the Hunter and Central Coast regions,
  - (b) to implement a planning framework that protects areas of significant conservation importance, while facilitating development and public facilities in appropriate areas, that are accessible to a range of population groups, to accommodate Lake Macquarie City's social and economic needs,
  - (c) to promote the efficient and equitable provision of public services, infrastructure and amenities,
  - (d) to facilitate a range of accommodation types throughout Lake Macquarie City so that housing stock meets the diversity of community needs and is affordable to as large a proportion of the population as possible,
  - (e) to apply the principles of ecologically sustainable development,
  - (f) to encourage development that enhances the sustainability of Lake Macquarie City, including the ability to adapt to and mitigate against climate change.

#### 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 as "Deferred matter" on the Land Application Map.

#### 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 website of the Department of Planning and Environment.

## 1.8 Repeal of 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 under this provision:
- (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.

### 1.8B Amendment of SEPP applying to land

*Hunter Regional Environmental Plan 1989 (Heritage)* is amended by omitting “City of Lake Macquarie,” from clause 3.

### **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 (Exempt and Complying Development Codes) 2008 (Schedule 6)*

### **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).

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

### **2.1 Land use zones**

The land use zones under this Plan are as follows:

#### **Rural Zones**

- RU2 Rural Landscape
- RU3 Forestry
- RU4 Primary Production Small Lots
- RU6 Transition

#### **Residential Zones**

- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential

#### **Business Zones**

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B7 Business Park

#### **Industrial Zones**

- IN1 General Industrial
- IN2 Light 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

### **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 development consent, and
  - (c) development that may be carried out only with development 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.
- 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 development consent.
- (2) In deciding whether to grant development 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 development consent, or
  - (b) if the Schedule so provides—without development 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 development consent.

### Notes.

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

**Note.** The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

## 2.7 Demolition requires development consent

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

## 2.8 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 28 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.
- (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 infrastructure facilities such as those that comprise, or are for, air transport, correction, education, electricity generating works and solar energy systems, 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 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 maintain and enhance the natural amenity and the ecological values of the land.
- To provide for sustainable land management and forestry practices.

#### 2 Permitted without consent

Extensive agriculture; Home occupations; Horticulture

#### 3 Permitted with consent

Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Crematoria; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Freight transport facilities; Funeral homes; Garden centres; Health consulting rooms; Helipads; Home-based child care; Home businesses; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Landscaping material supplies; Mortuaries; Passenger transport facilities; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Resource recovery facilities; Roads; Roadside stalls; Rural industries; Rural supplies; Veterinary hospitals; Water recreation structures

#### 4 Prohibited

Any development not specified in item 2 or 3

## **Zone RU3 Forestry**

### **1 Objectives of zone**

- To enable development for forestry purposes.
- To enable other development that is compatible with forestry land uses.
- To acknowledge the use of State forests for recreation, conservation and sustainable harvesting of timber.

### **2 Permitted without consent**

Uses authorised under the *Forestry Act 2012*

### **3 Permitted with consent**

Airstrips; Biosolids treatment facilities; Camping grounds; Environmental protection works; Extensive agriculture; Extractive industries; Farm buildings; Forestry; Helipads; Roads; Rural industries; Signage

### **4 Prohibited**

Advertising structures; Livestock processing industries; Stock and sale yards; Any other development not specified in item 2 or 3

## **Zone RU4 Primary Production Small Lots**

### **1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide for a rural lifestyle and other compatible activities.
- To maintain or improve the quality of the environment.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Bed and breakfast accommodation; Boat sheds; Cellar door premises; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Home-based child care; Home businesses; Home industries; Intensive plant agriculture; Landscaping material supplies; Plant nurseries; Recreation areas; Roads; Roadside stalls; Signage; Veterinary hospitals; Water recreation structures

### **4 Prohibited**

Any 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 this zone and land uses within adjoining zones.
- To identify land that requires environmental studies to substantiate the capability and suitability of land prior to rezoning.
- To limit development that will prejudice or have the potential to prejudice future conservation or development of the land.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Bed and breakfast accommodation; Dwelling houses; Emergency services facilities; Environmental facilities; Extensive agriculture; Home businesses; Home industries; Roads; Roadside stalls; Signage

### **4 Prohibited**

Any 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.
- To provide for sensitive development of land at North Wallarah Peninsula.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business premises; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; Home businesses; Home industries; Hotel or motel accommodation; Hostels; Information and education facilities; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage

### **4 Prohibited**

Advertising structures; Funeral homes; Any other development not specified in item 2 or 3

## **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 encourage development that is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.

### **2 Permitted without consent**

Home-based child care; Home occupations

### **3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Kiosks; Neighbourhood shops; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing; Water recreation structures

### **4 Prohibited**

Any other 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.
- To maintain and enhance the residential amenity and character of the surrounding area.

### **2 Permitted without consent**

Home occupations

### **3 Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Registered clubs; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Seniors housing; Shop top housing; Water recreation structures

#### **4 Prohibited**

Any other development not specified in item 2 or 3

### **Zone B1 Neighbourhood Centre**

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

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To encourage employment opportunities in accessible locations.
- To create urban centres for safe and vibrant social, cultural, recreational and community activity.
- To provide for shop top housing as part of mixed use developments.

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

Nil

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

Boarding houses; Business premises; Child care centres; Community facilities; Home industries; Hostels; Medical centres; Neighbourhood shops; Residential flat buildings; Respite day care centres; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

#### **4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Airstrips; Bed and breakfast accommodation; Boat building and repair facilities; Boat launching ramps; Boat sheds; Bulky goods premises; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Hospitals; Industrial retail outlets; Industries; Jetties; Landscaping material supplies; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Plant nurseries; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Roadside stalls; Rural industries; Rural supplies; Sex services premises; Storage premises; Timber yards; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; 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 create spaces that are accessible and are a central focus for the community.
- To provide for housing as part of mixed use developments.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home industries; Hostels; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

**4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Airstrips; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures

**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 create urban centres and public spaces that are safe, accessible, welcoming and are a central focus for the community.
- To provide for housing as part of mixed use developments.
- To strengthen the roles of Charlestown, Glendale and Morisset as regional centres.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

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



#### **4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Airstrips; Bed and breakfast accommodation; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Hospitals; Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures

### **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 enable development that complements and enhances the core retail function and trading performance of Zone B2 Local Centre and Zone B3 Commercial Core.

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

Nil

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

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Multi dwelling housing; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

#### **4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Airstrips; Bed and breakfast accommodation; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Wholesale supplies

## **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 enable bulky goods premises and commercial uses that do not undermine the function of existing and future urban centres.
- To provide opportunities for high technology industries, scientific development and research activities.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Child care centres; Light industries; Medical centres; Neighbourhood shops; Office premises; Passenger transport facilities; Respite day care centres; 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; Airstrips; Amusement centres; Boat building and repair facilities; Boat launching ramps; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Food and drink premises; Forestry; Function centres; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Jetties; Marinas; Markets; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Roadside stalls; Rural industries; Shops; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; 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 support and protect industrial land for industrial uses.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Depots; Freight transport facilities; General industries; Industrial training facilities; Light industries; Neighbourhood shops; 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; Air transport facilities; Amusement centres; Boat launching ramps; Bulky goods premises; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Correctional centres; Eco-tourist facilities; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Extensive agriculture; Extractive industries; Farm buildings; Food and drink premises; Forestry; Function centres; Funeral homes; Health services facilities; Highway service centres; Home-based child care; Home businesses; Home occupations; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Kiosks; Marinas; Markets; Mooring pens; Moorings; Office premises; Open cut mining; Passenger transport facilities; Places of public worship; Plant nurseries; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Respite day care centres; Restricted premises; Roadside stalls; Rural industries; Rural supplies; Self-storage units; Shops; Tourist and visitor accommodation; Waste disposal facilities; Water recreation structures

### **Zone IN2 Light Industrial**

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

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To enable ancillary commercial uses if such uses will not undermine the function of existing and future urban centres.

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

Nil

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

Depots; Industrial training facilities; Light industries; Medical centres; Neighbourhood shops; 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; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Bulky goods premises; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Eco-tourist facilities; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Extensive agriculture; Extractive industries; Farm buildings; Food and drink premises; Forestry; Function centres; Funeral homes; Health services facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations; Industries; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Kiosks;

Marinas; Markets; Mooring pens; Moorings; Office premises; Open cut mining; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Roadside stalls; Rural industries; Shops; Tourist and visitor accommodation; Waste disposal facilities; Water recreation structures

## **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 recognise the contribution that marinas make to the recreational needs of the community.
- To ensure development does not adversely affect the ecology, scenic values or navigability of Lake Macquarie or its waterways.
- To encourage tourism development that is sensitively designed to enhance and complement its location and avoid unacceptable adverse impacts on the environment.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Boat building and repair facilities; Boat launching ramps; Business premises; Car parks; Charter and tourism boating facilities; Eco-tourist facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Jetties; Kiosks; Light industries; Marinas; Passenger transport facilities; Registered clubs; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

### **4 Prohibited**

Funeral homes; Any other development not specified in item 2 or 3

## **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**

Environmental protection works; Flood mitigation works; Roads; 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.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To provide land required for the development or expansion of major health, education and community facilities.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Environmental facilities; Environmental protection works; Extensive agriculture; Flood mitigation works; Roads; 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 SP3 Tourist**

**1 Objectives of zone**

- To provide for a variety of tourist-oriented development and related uses.
- To encourage tourism development that is sensitively designed to enhance and complement its location and that avoids unacceptable adverse impacts on the environment.
- To preserve land for tourism by limiting and discouraging development and uses that are not tourist-related.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Boarding houses; Boat sheds; Business premises; Camping grounds; Car parks; Caravan parks; Cellar door premises; Charter and tourism boating facilities; Community facilities; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Helipads; Hostels; Information and education facilities; Kiosks; Marinas; Markets; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor);

Registered clubs; Roads; Signage; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

**4 Prohibited**

Funeral homes; Any other development not specified in item 2 or 3

**Zone RE1 Public Recreation**

**1 Objectives of zone**

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

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Amusement centres; Animal boarding or training establishments; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Community facilities; Crematoria; Educational establishments; Emergency services facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Information and education facilities; Kiosks; Marinas; Markets; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Signage; Water recreation structures; Wharf or boating facilities

**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.
- To encourage development that complements its location and minimises any adverse impacts on the environment.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Amusement centres; Animal boarding or training establishments; Boat sheds; Camping grounds; Caravan parks; Charter and tourism boating facilities; Child care centres; Community facilities; Eco-tourist facilities; Educational establishments; Emergency services facilities; Entertainment facilities; Environmental facilities;

Environmental protection works; Flood mitigation works; Function centres; Helipads; Information and education facilities; Kiosks; Marinas; Markets; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; Roads; Signage; Tourist and visitor accommodation; Water recreation structures; Wharf or boating facilities

**4 Prohibited**

Bed and breakfast accommodation; Farm stay accommodation; Any other 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 conserve, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material.
- To encourage activities that meet conservation objectives.
- To enhance and manage areas affected by coastal processes.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Car parks; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works;

Home-based child care; Home businesses; Information and education facilities; Recreation areas; Roads; Water recreation structures

**4 Prohibited**

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; 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.
- To protect, manage and enhance corridors to facilitate species movement, dispersal and interchange of genetic material.
- To protect water quality, land surface conditions and important ecosystems.

**2 Permitted without consent**

Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Educational establishments; Emergency services facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Flood mitigation work; Forestry; Funeral homes; Home-based child care; Home businesses; Home industries; Information and education facilities; Kiosks; Places of public worship; Recreation areas; Roads; Roadside stalls; 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

**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.
- To protect, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material.
- To encourage rehabilitation and conservation of environmentally important land.

**2 Permitted without consent**

Home occupations



**3 Permitted with consent**

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Flood mitigation works; Home-based child care; Home businesses; Home industries; Information and education facilities; Recreation areas; Roads; Roadside stalls; 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.
- To provide for the recreational use of Lake Macquarie and its waterways as an important environmental, social and economic asset, including maintenance or enhancement of public navigation channels to a depth suitable for yachting and other boating activities.

**2 Permitted without consent**

Nil

**3 Permitted with consent**

Aquaculture; Boat building and repair facilities; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Charter and tourism boating facilities; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Jetties; Marinas; Mooring pens; Passenger transport facilities; Recreation areas; Recreation facilities (outdoor); Registered clubs; Roads; Water recreation structures; Wharf or boating facilities

**4 Prohibited**

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

## 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
    - (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

- (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 development 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 or referred to 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 under the *National Parks and Wildlife Act 1974* or land acquired under Part 11 of that Act,
  - (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*,
  - (ja) land identified as “Environmentally sensitive area” on the Environmentally Sensitive Area Map.

## **Part 4 Principal development standards**

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

- (1) The objectives of this clause are as follows:
  - (a) to promote the efficient use of land in accordance with this Plan,
  - (b) to ensure that subdivision does not prevent the orderly development of land in accordance with this Plan,
  - (c) to require adequate street frontages and dimensions for standard, battle-axe and irregular shaped lots,
  - (d) to ensure that the intensity of the development is appropriate to the land's environmental capability.
- (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.

### **4.1AA Minimum subdivision lot size for community title schemes**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that land to which this clause applies is not fragmented by subdivisions that would create additional dwelling entitlements or result in lots that would be unsuitable for their intended use.
- (2) This clause applies to a subdivision (being a subdivision that requires development consent) under the *Community Land Development Act 1989* of land in any of the following zones:
  - (a) Zone RU2 Rural Landscape,
  - (b) Zone RU6 Transition,
  - (c) Zone R1 General Residential,
  - (d) Zone R2 Low Density Residential,
  - (e) Zone R3 Medium Density Residential,
  - (f) Zone B7 Business Park,
  - (g) Zone IN1 General Industrial,
  - (h) Zone IN2 Light Industrial,
  - (i) Zone E2 Environmental Conservation.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the *Community Land Development Act 1989*) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

### **4.1A Exceptions to minimum subdivision 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 R2 Low Density Residential,
  - (b) Zone R3 Medium Density Residential.
- (3) Development consent may be granted to development to which this clause applies that is both of the following:
  - (a) the subdivision of land into 2 or more lots,
  - (b) the erection of:
    - (i) a dwelling house or an attached dwelling on land in Zone R3 Medium Density Residential if the size of each lot is equal to or greater than 200 square metres but no greater than 450 square metres, or
    - (ii) a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential if the size of each lot is equal to or greater than 300 square metres but no greater than 450 square metres.
- (4) Despite subclause (3), development consent may be granted for development under either subclause (3) (a) or (3) (b), but only if the consent authority is satisfied that the development would be consistent with a development control plan prepared specifically for the site.

**4.1B Exceptions to minimum subdivision lot sizes for certain residential development in urban release areas**

- (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 Zone R2 Low Density Residential in an urban release area.
- (3) Development consent may be granted to development to which this clause applies if the development is a subdivision of land that creates 10 or more lots and at least 10% of those lots (but not more than 50% of those lots) are:
  - (a) equal to or greater than 300 square metres, but not greater than 450 square metres, and
  - (b) for development for the purposes of a dwelling house or semi-detached dwelling.
- (4) Despite subclause (3), development consent may be granted for development under this clause, but only if the consent authority is satisfied that the development would be consistent with a development control plan prepared specifically for the site.

**4.1C Exceptions for subdivisions involving battle-axe lots or corner lots in certain zones**

- (1) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.
- (2) If a subdivision of land creates a battle-axe lot, the lot must have an area of:
  - (a) if the lot is in Zone R2 Low Density Residential—600 square metres, or
  - (b) if the lot is in Zone R3 Medium Density Residential—1,500 square metres.
- (3) If a subdivision of land creates a corner lot, the lot must have an area of:
  - (a) if the lot is in Zone R2 Low Density Residential—600 square metres, or
  - (b) if the lot is in Zone R3 Medium Density Residential—1,200 square metres.

#### 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 Primary Production Small Lots,
  - (d) Zone RU6 Transition.

**Note.** When this Plan was made it did not include all of these zones.

- (3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size 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 on land in certain rural and environment 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 environment protection zones.
- (2) This clause applies to land in the following zones:
  - (a) Zone RU2 Rural Landscape,
  - (b) Zone RU4 Primary Production Small Lots,
  - (c) Zone RU6 Transition,
  - (d) Zone E2 Environmental Conservation,
  - (e) Zone E3 Environmental Management,
  - (f) 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 unless the land:
  - (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
  - (b) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
  - (c) is 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) is an existing holding, or

- (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) 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, or
  - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

**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.

- (4) Development consent must not be granted under subclause (3) unless:
  - (a) no dwelling house has been erected on the land, and
  - (b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and
  - (c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.
- (5) Development consent may be granted for the erection of a dwelling house on land to which this clause applies if 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.
- (6) 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 31 December 2016.
- (7) In this clause:
  - existing holding** means land that:
    - (a) was a holding on 21 August 1981, 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 21 August 1981, and includes any other land adjoining that land acquired by the owner since 21 August 1981.

**holding** means all adjoining land, even if separated by a road or railway, held by the same person or persons.

**Note.** The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

#### **4.2B Dual occupancies on battle-axe lots in Zone R2**

- (1) The objective of this clause is to encourage the erection of dual occupancies on lots of an appropriate type and amenity.
- (2) Development consent must not be granted to development for the purpose of a dual occupancy on land in Zone R2 Low Density Residential on a lot that is a battle-axe lot.

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

- (1) The objectives of this clause are as follows:
  - (a) to ensure the height of buildings are appropriate for their location,
  - (b) to permit building heights that encourage high quality urban form.

- (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**

[Not adopted]

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

[Not adopted]

#### **4.6 Exceptions to development standards**

- (1) The objectives of this clause are as follows:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development 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) Development 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) Development 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
  - (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) Development 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 Primary Production Small Lots, 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 all of these zones.

- (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 development 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 2.8, 6.1 or 6.2.

## 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 RU6 Transition and marked "Local road"	Council
Zone R2 Low Density Residential and marked "Local road"	Council
Zone R3 Medium Density Residential and marked "Local road"	Council
Zone B2 Local Centre and marked "Local road"	Council
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 RE2 Private Recreation and marked "Local road"	Council
Zone SP2 Infrastructure and marked "Classified road"	Roads and Maritime Services
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>
Zone E2 Environmental Conservation and marked "Coastal lands acquisition"	The corporation constituted under section 8 of the Act
Zone E2 Environmental Conservation and marked "Environmental conservation"	Council
Zone E2 Environmental Conservation and marked "Local road"	Council
Zone E3 Environmental Management and marked "Environmental management"	Council
Zone E3 Environmental Management and marked "Local road"	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.

**Note.** If land, other than land shown indicated in the table, is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

#### 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 that table.

Column 1	Column 2
Land	Development
Zone RU6 Transition and marked "Local road"	Roads
Zone R2 Low Density Residential and marked "Local road"	Roads
Zone R3 Medium Density Residential and marked "Local road"	Roads
Zone B2 Local Centre and marked "Local road"	Roads
Zone RE1 Public Recreation and marked "Local open space"	Recreation areas
Zone RE1 Public Recreation and marked "Regional open space"	Recreation areas
Zone RE2 Private Recreation and marked "Local road"	Roads
Zone SP2 Infrastructure and marked "Classified road"	Roads
Zone E1 National Parks and Nature Reserves and marked "National Park"	Roads
Zone E2 Environmental Conservation and marked "Coastal lands acquisition"	The corporation constituted under section 8 of the Act
Zone E2 Environmental Conservation and marked "Environmental conservation"	Roads and environmental protection works
Zone E2 Environmental Conservation and marked "Local road"	Roads
Zone E3 Environmental Management and marked "Environmental management"	Roads and environmental protection works
Zone E3 Environmental Management and marked "Local road"	Roads

## 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

[Not adopted]

## 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 5 bedrooms.

**Note.** Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.

- (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 50 square metres of floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 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) 25% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, 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 3 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 30 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 100 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 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 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
  - (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 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, and
  - (d) the proposed development will not:
    - (i) be significantly affected by coastal hazards, or
    - (ii) have a significant impact on coastal hazards, or
    - (iii) increase the risk of coastal hazards in relation to any other land.

#### **5.6 Architectural roof features**

- (1) The objectives of this clause are as follows:
  - (a) to allow reasonable flexibility in the application of height limits,
  - (b) to enable development to contribute positively to local streetscapes.
- (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 development 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).

#### **5.8 Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.

- (2) The following development may be carried out, but only with development consent:
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW 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 Fire and Rescue NSW 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, including biodiversity values, through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.  
**Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
  - (a) development consent, or
  - (b) a permit granted by the Council.
- (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 that is within a heritage conservation area, or



(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

- (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
- (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or 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:
  - (i) that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or
  - (ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

**Note.** Permissibility may be a matter that is determined by or under any of these Acts.

(9) Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

**Note.** When this Plan was made it did not include all of these zones.

#### **5.9AA Trees or vegetation not prescribed by development control plan**

- (1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.
- (2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

#### **5.10 Heritage conservation**

**Note.** Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) **Objectives**

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Lake Macquarie City,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

**(2) Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
  - (i) a heritage item,
  - (ii) an Aboriginal object,
  - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) 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,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

**(3) When consent not required**

However, development 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, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, 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 an Aboriginal place of 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 of proposed development on heritage significance**

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

(5) **Heritage assessment**

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

- (a) on land on which a heritage item is located, or
  - (b) on land that is within a heritage conservation area, or
  - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) **Heritage conservation management plans**

The consent authority may require, after considering the heritage 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) **Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of 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 by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of nominated State heritage items**

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (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, or for any purpose on an Aboriginal place of heritage significance, 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 or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document 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 management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, 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 development 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 development consent, or that is exempt development, under *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.

**5.13 Eco-tourist facilities**

- (1) The objectives of this clause are as follows:
  - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
  - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:
  - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
  - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and

- (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
- (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and indigenous flora and fauna will be minimal, and
- (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
- (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
- (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours materials and landscaping with local indigenous flora, and
- (h) any infrastructure services to the site will be provided without significant modification to the environment, and
- (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
- (j) the development will not adversely affect the agricultural productivity of adjoining land, and
- (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
  - (i) measures to remove any threat of serious or irreversible environmental damage,
  - (ii) the maintenance (or regeneration where necessary) of habitats,
  - (iii) efficient and minimal energy and water use and waste output,
  - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
  - (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

## **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 of 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 it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

### **6.3 Development control plan**

- (1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes 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 active and passive recreation areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bush fire, 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 development for any of the following purposes:
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environment protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the development would be consistent with the objectives of the zone in which the land is situated.
- (5) The development control plan for the urban release area identified as “Edgeworth Area 2” on the Urban Release Area Map must, in addition to the matters specified in subclause (3), also provide for the following:
- (a) an overall transport movement hierarchy that provides for an arterial road linking Frederick Street and Minmi Road at Edgeworth,
  - (b) an assessment of the impact of development on flora and fauna and measures to mitigate any adverse impacts.

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

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

#### 6.5 Application of this Part

- (1) In this Part, *urban release area* means the following land:
- (a) land identified as “Arcadia Vale Area 1” on the Urban Release Area Map,
  - (b) land identified as “Bonnells Bay Area 1” on the Urban Release Area Map,
  - (c) land identified as “Cameron Park Area 1” on the Urban Release Area Map,
  - (d) land identified as “Cameron Park Area 2” on the Urban Release Area Map,
  - (e) land identified as “Cameron Park Area 3” on the Urban Release Area Map,
  - (f) land identified as “Cameron Park Area 4” on the Urban Release Area Map,
  - (g) land identified as “Cameron Park Area 5” on the Urban Release Area Map,
  - (h) land identified as “Cameron Park Area 6” on the Urban Release Area Map,

- (i) land identified as “Cardiff Area 1” on the Urban Release Area Map,
- (j) land identified as “Catherine Hill Bay Area 1” on the Urban Release Area Map,
- (k) land identified as “Catherine Hill Bay Area 2” on the Urban Release Area Map,
- (l) land identified as “Cooranbong Area 1” on the Urban Release Area Map,
- (m) land identified as “Cooranbong Area 2” on the Urban Release Area Map,
- (n) land identified as “Cooranbong Area 3” on the Urban Release Area Map,
- (o) land identified as “Dora Creek Area 1” on the Urban Release Area Map,
- (p) land identified as “Edgeworth Area 1” on the Urban Release Area Map,
- (q) land identified as “Edgeworth Area 2” on the Urban Release Area Map,
- (r) land identified as “Jewells Area 1” on the Urban Release Area Map,
- (s) land identified as “Morisset Area 1” on the Urban Release Area Map,
- (t) land identified as “Morisset Area 2” on the Urban Release Area Map,
- (u) land identified as “Morisset Area 3” on the Urban Release Area Map,
- (v) land identified as “Nords Wharf Area 1” on the Urban Release Area Map,
- (w) land identified as “Warners Bay Area 1” on the Urban Release Area Map,
- (x) land identified as “Wyee Area 1” on the Urban Release Area Map,
- (y) land identified as “Wyee Point Area 1” on the Urban Release Area Map.



## 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 is not required for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
  - (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine maintenance 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, and
  - (b) the works are not likely to lower the watertable.

## 7.2 Earthworks

- (1) The objective of this clause is 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.
- (2) Development consent is required for earthworks unless:
  - (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or
  - (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:
  - (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
  - (b) the effect of the 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 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 waterway, drinking water catchment or environmentally sensitive area,
  - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note.** The *National Parks and Wildlife Act 1974*, particularly section 86, deals with harming 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 identified 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) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
  - (c) incorporates appropriate measures to manage risk to life from flood, and
  - (d) will not 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 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.
- (5) In this clause:  
***flood planning level*** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

#### 7.4 Coastal risk planning

- (1) The objectives of this clause are as follows:
- (a) to avoid significant adverse impacts from coastal hazards,
  - (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,
  - (c) to enable the evacuation of land identified as coastal risk in an emergency,
  - (d) to avoid development that increases the severity of coastal hazards,
  - (e) to maintain existing coastal processes,
  - (f) to avoid adverse impacts on the environment.
- (2) This clause applies to the land identified as “Coastal risk” on the Coastal Risk Map.
- (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 not likely to cause detrimental increases in coastal risks to other development or properties, and
  - (b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and
  - (c) incorporates appropriate measures to manage risk to life from coastal risks, and
  - (d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and
  - (e) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and
  - (f) has regard to the impacts of sea level rise.
- (4) A word or expression used in this clause has the same meaning as it has in the *NSW Coastal Planning Guideline: 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 in the *Coastal Protection Act 1979*.

### **7.5 Terrestrial biodiversity**

- (1) The objective of this clause is to maintain terrestrial biodiversity by:
  - (a) protecting native fauna and flora, and
  - (b) protecting the ecological processes necessary for their continued existence, and
  - (c) encouraging the conservation and recovery of native fauna and flora and their habitats.
- (2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.
- (3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider:
  - (a) whether the development is likely to have:
    - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
    - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
    - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
    - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
  - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
  - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

### **7.6 Limited development on foreshore area**

- (1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- (2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:
  - (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,
  - (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,
  - (c) boat sheds, coastal protection works, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities, recreation areas or water recreation structures.

- (3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:
  - (a) the development will contribute to achieving the objectives for the zone in which the land is located, and
  - (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and
  - (c) the development will not cause environmental harm such as:
    - (i) pollution or siltation of the waterway, or
    - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
    - (iii) an adverse effect on drainage patterns, and
  - (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and
  - (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and
  - (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and
  - (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
  - (h) sea level rise or change of flooding patterns as a result of climate change has been considered.

#### **7.7 Development on sensitive Aboriginal landscape areas**

- (1) The objective of this clause is to recognise and conserve sensitive Aboriginal landscape areas.
- (2) The consent authority may require an Aboriginal Heritage Impact Statement to be prepared before granting consent to the carrying out of development on land identified as “sensitive Aboriginal landscape area” on the Sensitive Aboriginal Landscape Area Map.

#### **7.8 Airspace operations**

- (1) The objectives of this clause are as follows:
  - (a) to provide for the effective and ongoing operation of the Belmont Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or 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 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 Operations Surface but it has no objection to its construction, or
  - (b) the development will not penetrate the Limitation or 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 Operations Surface and should not be carried out.
- (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 Belmont Airport.  
*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 Belmont Airport.

### 7.9 Service stations in certain zones

- (1) The objective of this clause is to ensure that service stations on land other than land in business zones do not detract from the trading performance of commercial centres.
- (2) This clause applies to any land other than land in the following zones:
  - (a) Zone B1 Neighbourhood Centre,
  - (b) Zone B2 Local Centre,
  - (c) Zone B3 Commercial Core,
  - (d) Zone B4 Mixed Use,
  - (e) Zone B7 Business Park.
- (3) Development consent must not be granted to development for the purpose of a service station on land to which this clause applies unless:
  - (a) the gross floor area of the building (excluding parking, refuelling areas, vehicle access areas and any ancillary car wash areas) comprises no more than 30% of the site area, and
  - (b) any floor area used for the ancillary retail selling of general merchandise comprises no more than 50% of the gross floor area of the building.

### 7.10 Residential development in certain business zones

- (1) The objectives of this clause are as follows:
  - (a) to ensure the commercial viability of centres is maintained and enhanced by discouraging stand alone residential development in certain business zones,
  - (b) to provide for appropriate residential opportunities in a commercial environment,
  - (c) to ensure that development is compatible with any townscape and urban design principles adopted in a development control plan.
- (2) This clause applies to land in the following zones:
  - (a) Zone B1 Neighbourhood Centre,
  - (b) Zone B2 Local Centre,
  - (c) Zone B3 Commercial Core,
  - (d) Zone B4 Mixed Use.
- (3) Development consent must not be granted for development for the purpose of a residential flat building on land to which this clause applies unless it is part of a mixed use development in which all or part of the ground floor of the building facing the street is used for the purpose of business premises or retail premises.

### 7.11 Development for the purpose of bottle shops

- (1) The objectives of this clause are as follows:
  - (a) to ensure that bottle shops are appropriately located throughout Lake Macquarie City, and
  - (b) to ensure that bottle shops do not have a significant adverse impact on surrounding areas.
- (2) Development consent must not be granted to development for the purpose of a bottle shop unless the consent authority:
  - (a) has considered information on the community social profile, the social impact of the proposal and any proposed mitigation measures, and
  - (b) is satisfied that the development will not have a significant adverse impact on the surrounding area.
- (3) In this clause, **bottle shop** means retail premises, being licensed premises under the *Liquor Act 2007*, the principal purpose of which is the retail sale of liquor in sealed containers for consumption away from the premises.

### 7.12 Development for the purpose of seniors housing

- (1) The objective of this clause is to maintain for a certain period the opportunity for development for the purpose of seniors housing in certain locations.
- (2) Despite any other provision of this Plan, development consent may be granted to the following development:
  - (a) a hostel (within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*),
  - (b) a residential care facility,
  - (c) serviced self-care housing (within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*) if the consent authority is satisfied that the housing will be provided:
    - (i) for people with a disability, or
    - (ii) in association with a residential care facility, or
    - (iii) as a retirement village (within the meaning of the *Retirement Villages Act 1999*).
- (3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:
  - (a) the land is eligible land, and
  - (b) the land is of a sufficient size to accommodate at least 70 dwellings, and
  - (c) the land has frontage to a sealed public road that provides access to nearby urban areas, and
  - (d) at least 70% of the proposed development site comprises land with a slope of less than a 20% grade.
- (4) This clause ceases to apply 2 years after the commencement of this Plan.
- (5) This clause extends to a development application made but not finally determined before this clause ceases to apply.
- (6) In this clause, **eligible land**, means land on which development referred to in subclause (2) was permissible immediately before this Plan commenced.

### **7.13 Development on certain land at Boolaroo, Buttaba and North Wallarah Peninsula**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that the redevelopment of the former Pasminco Cockle Creek Smelter site, the former Incitec Pivot Fertilizer site at Boolaroo and the South Buttaba Hills paper subdivision site is developed in accordance with sound planning principles that recognise the site constraints and the requirement for integration with adjoining urban areas,
  - (b) to ensure that North Wallarah Peninsula is developed in accordance with sound planning principles and the development takes into account the environmentally sensitive area.
- (2) This clause applies to the following land:
  - (a) land identified as “Former Pasminco and Incitec sites” on the Key Sites Map, being the former Pasminco Cockle Creek Smelter site and the former Incitec Pivot Fertilizer site, Boolaroo,
  - (b) land identified as “Buttaba Hills” on the Key Sites Map, being the South Buttaba Hills paper subdivision site,
  - (c) land identified as “North Wallarah” on the Key Sites Map.
- (3) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the matters specified in subclause (4) has been prepared for the land.
- (4) 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 active and passive recreation areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bush fire, 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.
- (5) Subclause (3) does not apply to development for any of the following purposes:
  - (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environment protection purpose,



- (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the development would be consistent with the objectives of the zone in which the land is situated.
- (6) In addition to subclause (3), development consent must not be granted to development on land referred to in subclause (2) (a) unless the consent authority is satisfied that:
- (a) provision has been, or will be, made for vehicle access between Munibung Road, Cardiff and T C Frith Avenue, Boolaroo, and
  - (b) there are no significant land use conflicts between the proposed development and the remediation of the remainder of the site.

#### **7.14 Development on certain land near Rafferty's Road, Cams Wharf**

- (1) This clause applies to land identified as "Cams Wharf Area 1" on the Additional Permitted Uses Map.
- (2) Development consent may be granted to development for the purpose of an integrated tourist facility that may contain a range of accommodation types (including dwellings) and a combination of land uses including retailing, recreational and community activities appropriate to the community's needs on land to which this clause applies.
- (3) In this clause, *an integrated tourist facility* means a facility that contains the following:
  - (a) tourist facilities, including a range of accommodation types and dwellings, and
  - (b) a combination of land uses including community facilities, recreation areas, recreation facilities and retail premises, appropriate to the needs of the community.

#### **7.15 Development on certain land at Ada Street, Cardiff**

- (1) The objective of this clause is to ensure that appropriate arrangements are made for stormwater detention on certain land at Ada Street, Cardiff.
- (2) This clause applies to land at Ada Street, Cardiff, being Lots 1 and 2, DP 788892.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the existing on-site stormwater detention and any additional stormwater detention required by the proposed development will be detained within the boundaries of the site, or at an alternative location approved by Council.

#### **7.16 Development on certain land at Trinity Point, Morisset Park**

- (1) This clause applies to land identified as "Morisset Park Area 1" on the Additional Permitted Uses Map.
- (2) Development consent may be granted to development for the purpose of residential accommodation (being attached dwellings, dwelling houses, multi dwelling houses and residential flat buildings) and commercial premises as part of a facility for tourists on land to which this clause applies if:
  - (a) the development comprises no more than 150 dwellings, and
  - (b) no more than 50% of dwellings are to be used for the purpose of permanent residential accommodation, and
  - (c) the total floor area of any commercial premises will not exceed 550 square metres, and

- (d) the development will include an Aboriginal education centre to provide visitors and residents with information about Aboriginal cultural and heritage values, and
  - (e) the development has a minimum 6 metre setback from the boundary of Lot 32, DP 1117408.
- (3) In determining whether to grant development consent under subclause (2), the consent authority must consider the following:
- (a) whether a transition of building heights is provided between Lake Macquarie and nearby streets,
  - (b) whether any commercial premises are of a nature and scale that reflect the needs of the tourist resort facility and local community,
  - (c) whether the development achieves a high quality urban form, while maintaining satisfactory views from the adjoining land in Zone R2 Low Density Residential to Lake Macquarie,
  - (d) whether view sharing is provided along the edges of Lake Macquarie,
  - (e) whether the development involves appropriate height to plan width proportions that are compatible with the massing, street frontage and building forms within the area,
  - (f) whether the development includes an active street frontage,
  - (g) whether the development involves building heights that complement the height of buildings on adjacent land,
  - (h) whether the development will provide for the protection of the Aboriginal midden located on the southern foreshore of Lake Macquarie.
- (4) Development consent must not be granted to development under subclause (2) unless the consent authority is satisfied that tourist and visitor accommodation and residential accommodation is evenly distributed across the site.
- (5) In this clause:
- active street frontage** means a street frontage that enables direct visual and physical contact between the street and the interior of the building.
- Note.** Clearly defined entrances, windows and shop fronts are elements of a building facade that contribute to an active street frontage.

#### **7.17 Development on certain land at 1A Raymond Street, Speers Point**

- (1) This clause applies to land identified as “Speers Point Area 1” on the Key Sites Map being the former Speers Point Quarry site.
- (2) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the matters specified in subclause (3) has been approved by the Council for that land.
- (3) The development control plan referred to in subclause (2) must provide for the following matters in relation to the land:
  - (a) further geotechnical studies, proposed earthworks and reshaping of the site, including stabilisation of quarry walls and drainage design,
  - (b) phase 2 detailed investigation report for contaminated land including a remedial action plan (RAP) and site validation for future urban subdivision,
  - (c) guidelines for the protection of cultural heritage (both Aboriginal and European) and culturally significant areas,
  - (d) subdivision layout including road, pedestrian and bicycle access,

- (e) a landscape management plan including the creation and maintenance of the visual mitigation measures, the buffer area vegetation and the revegetation of exposed areas including the spur,
- (f) the location of flora, fauna and vegetation corridors,
- (g) the management and maintenance of native vegetation on the land in Zone E2 Environmental Conservation and provision of an off-set for wetland removal,
- (h) detailed urban design controls for visual impacts, view corridors and desired residential character, in terms of overall design principles for any development and provision of muted tones colour palette, roof form and materials to be used,
- (i) bush fire risk management in accordance with Rural Fire Services requirements,
- (j) the preparation of a mosquito management plan,
- (k) sustainable stormwater management, including water reuse,
- (l) plans for any area that is to be dedicated for public use, including the provision of land for future walking trails or for a right of way for cycle and pedestrian linkages.

#### **7.18 Development on certain land at Wangi Wangi**

- (1) This clause applies to land identified as “Wangi Wangi Area 1” on the Additional Permitted Uses Map.
- (2) Development consent may be granted for development for the purposes of bed and breakfast accommodation, recreation facilities (indoor), research stations, residential accommodation, storage premises and water recreation structures on land to which this clause applies.
- (3) Development consent must not be granted to development for the purpose of residential accommodation unless the consent authority is satisfied that:
  - (a) the development is not likely to be adversely affected by mining or petroleum production noise, visual amenity or odour, and
  - (b) the development incorporates mitigation measures for the management of any such noise, visual amenity or odour impacts, and
  - (c) the total floor area for retail premises in the development does not exceed 5,000 square metres, and
  - (d) the development involves the use of the Wangi Power Station building for a combination of other uses that are permitted on the land, other than retail premises.
- (4) The Wangi Power Station building must be fully redeveloped under subclause (3) before development consent may be given for development on the adjacent land in Zone R3 Medium Density Residential.
- (5) Development consent must not be granted for development on land to which this clause applies unless a development control plan that provides for the following matters has been prepared in relation to the development:
  - (a) a mixed use development and a land use mix that takes account of Wangi Wangi local business centre,
  - (b) fauna, flora and vegetation corridors,
  - (c) visual impacts, view corridors and design principles for the development,
  - (d) the identification of any recreation, community and social facilities on the land,

- (e) the conservation and interpretation of the heritage significance of the land in accordance with clause 5.10,
- (f) any conservation management plan prepared by the Council,
- (g) measures to reduce any potential conflicts with adjoining land uses, including Myuna Colliery,
- (h) traffic, pedestrian and cycle networks,
- (i) the staging and sequencing of the development on the land within Zone R3 Medium Density Residential,
- (j) the identification of landscape areas for revegetation,
- (k) sustainable stormwater management, including water re-use,
- (l) waste management and demolition issues,
- (m) measures to ensure that any noise abatement measures will not conflict with other building design requirements, including solar access, ventilation and Mine Subsidence Board requirements.

#### **7.19 Development on certain land at Wyee Point**

- (1) This clause applies to land identified as “Wyee Point Area 1” on the Additional Permitted Uses Map.
- (2) Development consent may be granted to development for the purposes of an integrated tourist community, being a tourist destination containing tourist facilities, attached dwellings, dwelling houses, multi dwelling housing and residential flat buildings on land to which this clause applies.
- (3) In this clause, *an integrated tourist community* means a community that contains the following:
  - (a) tourist facilities, including a range of accommodation types (including dwellings), and
  - (b) a combination of land uses including community facilities, recreation areas, recreation facilities and retail premises, appropriate to the community’s needs.

#### **7.20 Development on environmentally sensitive land**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that adverse impacts of development on environmentally sensitive land are minimised or offset,
  - (b) to ensure that the location of development on environmentally sensitive land is appropriate having regard to the management of bush fire risk and achieving biodiversity outcomes.
- (2) This clause applies to land identified as “Environmentally sensitive land” on the Environmentally Sensitive Land Map.
- (3) When assessing a development application for development on land to which this clause applies, the consent authority must consider:
  - (a) whether the development will have an adverse impact on the condition and significance of the vegetation on the land, and
  - (b) the importance of that vegetation to the growth and survival of native fauna, and
  - (c) whether the development has the potential to fragment, disturb or diminish the biodiversity values of the land.

- (4) Before granting development consent to development on land to which this clause applies, the consent authority must be satisfied that:
  - (a) the development is sited, designed and managed to avoid potential adverse environmental impacts, or
  - (b) if an impact cannot be avoided by adopting feasible alternatives, the development will mitigate, minimise or offset that impact.

#### **7.21 Essential services**

- (1) 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 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,
  - (c) the disposal and management of sewage,
  - (d) stormwater drainage or on-site conservation,
  - (e) suitable vehicular access.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing a public utility infrastructure referred to in this clause.

#### **7.22 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) whether 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 RU4 Primary Production Small Lots, 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 of the proposed development and its hours of operation 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.

## Schedule 1 Additional permitted uses

(Clause 2.5)

### 1 Use of certain land at Belmont

- (1) This clause applies to land identified as “Belmont Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of seniors housing is permitted with development consent.

### 2 Use of certain land at Cardiff

- (1) This clause applies to land identified as “Cardiff Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purposes of medical centres, shops (with a gross floor area of 50m<sup>2</sup>) and associated car parks is permitted with development consent.

### 3 Use of certain land at Catherine Hill Bay

- (1) This clause applies to land identified as “Catherine Hill Bay Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purposes of subdivision and a dwelling house is permitted with development consent if:
  - (a) a dwelling house will be located on each lot created by the subdivision, and
  - (b) the dwelling house to be erected is intended only to replace an existing dwelling house, and
  - (c) the building envelope of the replacement dwelling house does not exceed the building envelope of the existing dwelling house.

### 4 Use of certain land at Caves Beach

- (1) This clause applies to land identified as “Caves Beach Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of dwelling houses is permitted with development consent.

### 5 Use of certain land at Caves Beach

- (1) This clause applies to land identified as “Caves Beach Area 2” on the Additional Permitted Uses Map.
- (2) Development for the purpose of serviced apartments is permitted with development consent.

### 6 Use of certain land at Cooranbong

- (1) This clause applies to land identified as “Cooranbong Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of hotel or motel accommodation is permitted with development consent.

### 7 Use of certain land at Cooranbong

- (1) This clause applies to land identified as “Cooranbong Area 2” on the Additional Permitted Uses Map.

- (2) Development for the following purposes is permitted with development consent:
  - (a) a highway service centre,
  - (b) a shop with a floor area not exceeding 250m<sup>2</sup>,
  - (c) a subdivision into no more than 2 lots of any size that separates the site of the highway service centre and its access ramps from adjoining rural and environmental land and is not for the purposes of the erection of a dwelling.

#### **8 Use of certain land at Cooranbong**

- (1) This clause applies to land identified as “Cooranbong Area 3” on the Additional Permitted Uses Map.
- (2) Development for the following purposes is permitted with development consent:
  - (a) a highway service centre,
  - (b) a shop with a floor area not exceeding 250m<sup>2</sup>,
  - (c) a subdivision into no more than 2 lots of any size that separate the site of the highway service centre and its access ramps from adjoining rural and environmental land and is not for the purposes of the erection of a dwelling.

#### **9 Use of certain land at Eraring**

- (1) This clause applies to land identified as “Eraring Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of aquaculture is permitted with development consent.

#### **10 Use of certain land at Glendale**

- (1) This clause applies to land identified as “Glendale Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of subdivision is permitted with development consent.

#### **11 Use of certain land at Glendale**

- (1) This clause applies to land identified as “Glendale Area 2” on the Additional Permitted Uses Map.
- (2) Development for the purposes of recreation facilities (indoor), recreation facilities (major) and recreation facilities (outdoor) is permitted with development consent.

#### **12 Use of certain land at Lake Macquarie**

- (1) This clause applies to land identified as “Lake Macquarie” on the Additional Permitted Uses Map.
- (2) Development for the purposes of food and drink premises (excluding pubs) and kiosks is permitted with development consent.

#### **13 Use of certain land at Mirrabooka**

- (1) This clause applies to land identified as “Mirrabooka Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purposes of subdivision to create 2 lots and the erection of a dwelling house on each lot is permitted with development consent.

#### **14 Use of certain land at Mirrabooka**

- (1) This clause applies to land identified as “Mirrabooka Area 2” on the Additional Permitted Uses Map.

- (2) Development for the purposes of subdivision to create 2 lots and the erection of a dwelling house on each lot is permitted with development consent.

**15 Use of certain land at Mirrabooka**

- (1) This clause applies to land identified as “Mirrabooka Area 3” on the Additional Permitted Uses Map.
- (2) Development for the purposes of subdivision to create 2 lots and the erection of a dwelling house on each lot is permitted with development consent.

**16 Use of certain land at Morisset**

- (1) This clause applies to land identified as “Morisset Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of a mortuary is permitted with development consent.

**17 Use of certain land at Morisset**

- (1) This clause applies to land at Morisset identified as “Morisset Area 2” on the Additional Permitted Uses Map.
- (2) Development for the purpose of a market is permitted with development consent if:
  - (a) the market is open to the public only on Saturdays and Sundays between 7.30am and 6.00pm, and
  - (b) the gross floor area of the market does not exceed 10,300m<sup>2</sup>.

**18 Use of certain land at North Wallarah Peninsula**

- (1) This clause applies to land identified as “North Wallarah Peninsula Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purposes of amusement centres, boat sheds, car parks, caravan parks, entertainment facilities, function centres, garden centres, health services facilities, landscaping material supplies, office premises, public administration buildings, recreation facilities (indoor), registered clubs, residential accommodation (being for the purposes of dwellings), retail premises (other than roadside stalls), service stations, tourist and visitor accommodation and veterinary hospitals is permitted with development consent.

**19 Use of certain land at North Wallarah Peninsula**

- (1) This clause applies to land identified as “North Wallarah Peninsula Area 2” on the Additional Permitted Uses Map.
- (2) Development for the purposes of residential accommodation (being for the purposes of dwellings) is permitted with development consent.

**20 Use of certain land at Teralba**

- (1) This clause applies to land identified as “Teralba Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of resource recovery facilities is permitted with development consent.

**21 Use of certain land at Teralba**

- (1) This clause applies to land identified as “Teralba Area 2” on the Additional Permitted Uses Map.
- (2) Development for the purpose of industries is permitted with development consent.



**22 Use of certain land at Fairfax Road, Warners Bay**

- (1) This clause applies to land identified as “Warners Bay Area 1” on the Additional Permitted Uses Map.
- (2) Development for the purpose of subdivision to create no more than 3 lots is permitted with development consent if:
  - (a) an existing dwelling is located on each lot, other than the lot referred to in paragraph (b), and
  - (b) the consent authority is satisfied that one of the lots is appropriately located and reserved for drainage purposes.

## 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.

### Amusement devices in Zones B1, B2, B3, B4 and RE2

- (1) Must be located wholly within the premises.
- (2) Maximum 5 devices per premises.

### Awnings over trade waste disposal points in Zones IN1, IN2 and SP1

- (1) Maximum area—30m<sup>2</sup>.
- (2) Maximum height—2.7m.
- (3) Must facilitate maintenance of the trade waste device and enable all weather use.
- (4) Must be constructed of materials that match or complement the design and appearance of existing buildings.
- (5) Must be located behind the front building line.

### Directional real estate signs on certain land

- (1) Must be on land in a residential, business or industrial zone or on land in Zone RU2, Zone RU4, Zone RE2, Zone SP2 or Zone SP3 that is not part of an approved subdivision that is being advertised for sale.
- (2) Must comply with the general requirements for signage and advertising specified in clause 2.83 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (3) Maximum area:
  - (a) in a rural or residential zone—4.5m<sup>2</sup>, or
  - (b) in any other zone—6m<sup>2</sup>.
- (4) Must be located within a 3km radius of the subdivision.
- (5) Maximum—4 signs.
- (6) If the nearest major arterial road or freeway is located outside the 3km radius, 3 additional signs may be located outside the 3 km radius.
- (7) Must relate to the subdivision as a whole and not to individual lots.
- (8) Must be removed as soon as practicable after all the land in the subdivision has been sold.

### Fuel tanks for home businesses in Zones RU2, RU4, E2, E3 and E4

- (1) If constructed or installed on land in a rural zone for an agricultural activity—must be on a lot that is 2ha or less.
- (2) Maximum capacity—5,000L.
- (3) Must be located wholly within the property.
- (4) Must be bunded with capacity to contain at least 125% of the capacity of the tank.

- (5) Must be freestanding and constructed of prefabricated metal.
- (6) Must be installed in accordance with Australian Standard AS 1940—2004, *The storage and handling of flammable and combustible liquids*.
- (7) Must not be located within 30m of a creek or street, or within 5m of a side or rear lot boundary.
- (8) Minimum setback—20m from adjoining dwellings.

**Hail protection structure in Zones RU2 and RU4**

Must be ancillary to agricultural use and consist of light construction (For example, poles, wire and mesh).

**Navigation and emergency response facilities**

Must be a navigation and emergency response facility within the meaning of clause 67 of the *State Environmental Planning Policy (Infrastructure) 2007*.

## 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

(When this Plan was made this Part was blank)

### Part 2 Complying development certificate conditions

**Note.** Complying development must comply with the requirements of the Act, the regulations under the Act and this Plan.

#### General conditions

Any development specified in Part 1 is subject to the same conditions set out in Schedule 6 to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

## **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	

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### **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		

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

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

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## Schedule 5 Environmental heritage

(Clause 5.10)

### Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Argenton	Cockle Creek Railway Bridge	Adjacent 462 Lake Road	Lot 2, DP 1191714	Local	4
Argenton	Former Cockle Creek Railway Bridge	Adjacent 462 Lake Road		Local	3
Argenton	Church hall and Anglican Church	475–477 Lake Road	Lots 1 and 2, DP 125686	Local	1
Argenton	Newcastle Mines Rescue Station	533 Lake Road	Lot 2, DP 599235	Local	2
Argenton, Boolaroo, Edgeworth, Glendale, Speers Point	Speers Point Steam Tram Line	Newcastle to Speers Point via West Wallsend		Local	6
Awaba	Former Awaba Union Church	20 Gosford Street	Lot 1, Section 8, DP 758041	Local	236
Awaba	Gatekeeper's cottage	154 Wilton Road	Lot 1, DP 817297	Local	7
Barnsley	Former Barnsley Public School	91 Appletree Road	Lot 2, DP 1001812	Local	8
Barnsley	Johnston Family Cemetery	14A Taylor Avenue	Lot 100, DP 630296	Local	9
Barnsley, Holmesville, Killingworth, West Wallsend	Seaham, West Wallsend, Fairley and Killingworth Railway	Cockle Creek to Seaham No 1 Colliery at Seahampton with branches to Fairley and Killingworth		Local	10
Belmont	House "Yarragee"	23 Bellevue Road	Lot 1, DP 881605	Local	11
Belmont	Former ferry wharf	55 Brooks Parade	Belmont Wharf	Local	12
Belmont	Captain Bain's house	15 George Street	Lot 2, DP 13715	Local	13
Belmont	House "The Bennals"	45 Walter Street	Lot D, DP 402085	Local	14
Belmont, Bennetts Green, Dudley, Gateshead, Highfields, Jewells, Kahibah, Redhead, Whitebridge	Belmont Railway	Adamstown to Belmont, the New Redhead Estate and Coal Company Railway		Local	15

Suburb	Item name	Address	Property description	Significance	Item no
Belmont, Dudley, Whitebridge	Branch lines from the Belmont Railway	Burwood No 3 Colliery, Whitebridge, Dudley Colliery, Dudley, Lambton Colliery, Redhead, John Darling Colliery, Belmont North, Belmont Colliery Sidings, Belmont	Various lots	Local	16
Belmont North	Former John Darling Colliery	14 John Darling Avenue and 65, 75 and 85 John Fisher Road	Lot 100, DP 1136505; Lots 1-3, DP 814551	Local	17
Belmont North	Former staff houses, colliery row	3, 5, 7, 9 and 11 Maranatha Close	Lots 12 and 14-16, DP 848941; Lot 8, DP 883150	Local	18
Belmont South	Tank traps	Cold Tea Creek, 690A Pacific Highway	Lot 7024, DP 1057186	Local	237
Blackalls Park	Railway bridges	1c Reynolds Street	Lot 1181, DP 1176049	Local	19
Blackalls Park	Railway station	1c Reynolds Street	Lot 1181, DP 1176049	Local	20
Blackalls Park	Toronto railway overbridge	1c Reynolds Street	Lot 1181, DP 1176049	Local	95
Blackalls Park, Fassifern, Toronto	Fassifern to Toronto Branch Railway Line	Fassifern Railway Station to Toronto Railway Station and then Toronto Wharf	Lot 1181, DP 1176049	Local	21
Boolaroo	Group of 4 cottages	8, 10, 12 and 14 Creek Reserve Road	Lot 11, DP 616785; Lot 1, DP 301687; Lots 3 and 4, DP 8704	Local	23
Boolaroo	House "Alida"	Lakeview Road	Lot 4, Section M, DP 3494	Local	24
Boolaroo	Commercial Hotel	2 Main Road	Lots 1 and 2, Section A, DP 3494	Local	25
Boolaroo	Former laboratory building on the former Pasminco site	Part of 13A Main Road	Part Lot 2, DP 1127713	Local	227
Boolaroo	Former motor garage	19 Main Road	Lot 1, DP 125272	Local	26
Boolaroo	Former Boolaroo Post Office	91 Main Road	Lot 2, DP 809177	Local	27
Booragul	House "Awaba Park"	18 Marmong Street and 2b First Street	Lot 120, DP 855520; Lot 33, DP 1133743	Local	28

Suburb	Item name	Address	Property description	Significance	Item no
Booragul	Colliery relics	155 Old Main Road	Lot 33, DP 858667	Local	29
Booragul	Quigley Grave	24 Park Parade	Part Lot 468, DP 774186	Local	30
Cams Wharf	Lord of the Manor Cams Cottage	13 Cams Wharf Road	Lot 2, DP 616354	Local	31
Cardiff	St Kevin's Church	226 Main Road	Lots 3, 6 and 7, Section A, DP 4143	Local	32
Cardiff	St Kevin's cottage	230 Main Road	Lot 1, DP 1015805	Local	33
Cardiff	Former miner's cottage	251 Main Road	Lot 1, DP 303203	Local	34
Cardiff	Row of 4 shops with cottages	275 and 279 Main Road	Lots 21 and 22, DP 544989	Local	35
Cardiff	Brick shops	281 Main Road	Lot 4, DP 10789	Local	36
Cardiff	House	309 Main Road	Lot 6, DP 926364	Local	37
Cardiff	Former Cardiff Masonic Hall	4 Margaret Street	Lot 12, Section B, DP 8186	Local	38
Cardiff	House	6 Michael Street	Lot 1, DP 214463	Local	39
Cardiff	Former doctor's surgery	8 Michael Street	Lot 2, DP 214463	Local	40
Cardiff South	Former colliery tramway	14a Almora Close, 180 and 235 Macquarie Road, 13 Camille Close and 63 Knight Street	Lots 37 and 38, DP 827464; Lot 17, DP 727746; Lot 673, DP 805546; Lot 21, DP 805655	Local	41
Catherine Hill Bay	Coal loader jetty	Southern end of the beach	Lot 204, DP 1164883	Local	57
Catherine Hill Bay	Cottages	3-9 Clarke Street	Lots 84-87, DP 222717	Local	42
Catherine Hill Bay	Cottages	10-12 Clarke Street	Lots 71 and 72, DP 222717	Local	43
Catherine Hill Bay	Cottage	17 Clarke Street	Lot 80, DP 222717	Local	44
Catherine Hill Bay	Cottages	19-21 Clarke Street	Lots 78 and 79, DP 222717	Local	45
Catherine Hill Bay	Police station and lock up	23-27 Clarke Street	Lots 1, 3 and 5, Section F, DP 163	Local	46
Catherine Hill Bay	Wallarah Hotel	24 Clarke Street	Lot 1, Section D, DP 163	Local	47



Suburb	Item name	Address	Property description	Significance	Item no
Catherine Hill Bay	Archaeological remains of house and associated structures, workshop building, house (former mine engineer's residence), house (former electrical engineer's residence) and two cottages	Colliery Road, Middle Camp	Lot 2, DP 1180181	Local	247
Catherine Hill Bay	House and 4 Norfolk Island Pines	4 and 75 Flowers Drive	Lots 5 and 7, DP 1180181	Local	50
Catherine Hill Bay	House	26 Flowers Drive	Lot 1, DP 1107593	Local	48
Catherine Hill Bay	Group of cottages	27, 29, 31, 33, 35, 37, 42, 44, 46, 48, 50, 54, 56 and 58 Flowers Drive	Lots 14–19, 41–45 and 47–49, DP 222943	Local	49
Catherine Hill Bay	Anglican Church	71 Flowers Drive	Lot 21, DP 593154	Local	51
Catherine Hill Bay	Cottage	3 Lindsley Street	Lot 54, DP 222717	Local	53
Catherine Hill Bay	Cottage	11 Lindsley Street	Lot 58, DP 222717	Local	54
Catherine Hill Bay	Former WWII RAAF Radar Station 208	145 Mine Camp Road	Part Lot 3, DP 1016670; Part Lot 6, DP 1180181	State	238
Catherine Hill Bay	Hall	1 Northwood Road	Lot 1, DP 407474	Local	55
Catherine Hill Bay	Cemetery	8 Northwood Road	Lot 7079, DP 1029250	Local	56
Charlestown	Miners' cottages	300 and 304–308 Charlestown Road	Lots 2 and 4–6, DP 33470	Local	59
Charlestown	Cottage	32 Smith Street	Lot 1, DP 213865	Local	60
Charlestown	Brick cottage	36 Smith Street	SP 43904	Local	61
Coal Point	Threlkeld's Mine	359 Coal Point Road	Lot 172, DP 1037893	Local	62
Cooranbong	House "Sunnyside"	27 Avondale Road	Lot 2, DP 204207	Local	63
Cooranbong	Sanitarium dairy farm	15 Central Road	Lots 19, 20, 22 and 23, Section 3, DP 3533; Lots 20 and 21, DP 3534; Lot 4, DP 1117517	Local	65
Cooranbong	Water tower	15 Central Road	Lot 20, DP 3534	Local	64

Suburb	Item name	Address	Property description	Significance	Item no
Cooranbong	Sanitarium Health Foods factory	40, 50, 70 and 80 Central Road	Lots 1, 6–8, Section 1, DP 3533; Lot 2, Section 7, DP 3533	Local	71
Cooranbong	Auditorium	50 Central Road	Lot 9, Section 7, DP 3533	Local	70
Cooranbong	Bethel hall	50 Central Road	Lot 1, Section 1, DP 3533	Local	66
Cooranbong	College hall	50 Central Road	Lot 1, Section 1, DP 3533	Local	67
Cooranbong	House “The Laurels”	50 Central Road	Lot 1, Section 1, DP 3533	Local	69
Cooranbong	Science hall	50 Central Road	Lot 1, Section 1, DP 3533	Local	68
Cooranbong	House “Three Bells”	597 Freemans Drive	Lot 201, DP 1059478	Local	72
Cooranbong	Cottage	661 Freemans Drive	Lot A, DP 416525	Local	73
Cooranbong	House	9 Kings Road	Lot 3, DP 549007	Local	75
Cooranbong	House	85 Kings Road	Lot 1, DP 798409	Local	76
Cooranbong	Grave “Frost’s Rest”	154 Mannings Road	Lot 1, DP 919600	Local	74
Cooranbong	Catholic Church and cemetery	6 Martinsville Road	Lot 1, DP 197852	Local	77
Cooranbong	Former post office	41 Martinsville Road	Lot 120, DP 755223	Local	78
Cooranbong	North Corrumbung Cemetery	200 Martinsville Road	Lot 7300, DP 1145113; Lot 1, DP 1095988	Local	79
Cooranbong	Suspension footbridge	Off Victory Street (crosses Dora Creek)		Local	80
Dora Creek	Former St Pauls Anglican Church	25 Coorumbung Road	Lot 101, DP 840020	Local	239
Dora Creek	House	16 Dora Street	Lot 11, DP 533825	Local	81
Dora Creek	Holmes Store	3 Watt Street	Lot 38, DP 528601	Local	82
Dudley	Ocean View Hotel	85 Ocean Street	Lot 20, Section A, DP 2304	Local	85
Dudley	Royal Crown Hotel	94 Ocean Street	Lot 18, Section B, DP 2304	Local	86
Dudley	Pensioners hall	98 Ocean Street	Lot 1, DP 931771	Local	87

Suburb	Item name	Address	Property description	Significance	Item no
Dudley	Dudley Public School	124 Ocean Street	Lot 145, DP 755233	Local	88
Dudley	Two Miner's cottages	125 and 127 Ocean Street	Lot 3, Section D, DP 2657; Lot 11, DP 1150274	Local	89
Dudley	Cast iron reservoir	147 Ocean Street	Lot 114, DP 1132668	Local	90
Dudley	Dudley Monument	Corner of Redhead Road and Ocean Street	Lot 189, DP 755233	Local	240
Dudley	Former Miner's cottage	29 Thomas Street	Lot 11, Section D, DP 2657	Local	83
Dudley	Former Miner's cottage	31 Thomas Street	Lot 9, Section D, DP 2657	Local	84
Edgeworth	School teacher's residence	7 Minmi Road	Lot 106, DP 755262	Local	91
Edgeworth, Cameron Park, West Wallsend	West Wallsend steam tram line	West Wallsend to Newcastle via Wallsend, Holmesville, Estelville, Edgeworth and Glendale		Local	92
Eraring	Eraring Power Station	268 and 294 Rocky Point Road, Eraring, and 115, 215, 235 and 260 Construction Road, Myuna Bay	Lots 10 and 11, DP 1050120; Lot 20, DP 840668; Lot 211, DP 840670; Lots 50 and 51, DP 840671	Local	93
Fassifern	Fassifern Railway Station	Tucker Close	Lots 2 and 3, DP 926559; Lot 1, DP 1108065	Local	94
Fassifern	Fassifern railway cottage	Wallsend Road	Lot 1, DP 854050	Local	96
Freemans Waterhole	Headframe former mining museum	890A Freemans Drive	Lot 80, DP 610602	Local	97
Glendale	Cardiff railway workshops	460 Main Road	Lot 100, DP 1100258	Local	98
Holmesville	Brick house	47 Appletree Road	Lot 3, Section B, DP 4479	Local	99
Holmesville	Brick house	54 Appletree Road	Lot 22, DP 740832	Local	100
Holmesville	Former police station	20 Charlotte Street	Lot 15, Section E, DP 5432	Local	101
Holmesville	Post office store	18 George Street	Lot 1, Section L, DP 3442	Local	102

Suburb	Item name	Address	Property description	Significance	Item no
Holmesville	Holmesville Hotel	21 George Street	Lot 20, Section M, DP 3442	Local	103
Holmesville	Former Uniting Church	29 Helens Street	Lot 16, Section N, DP 3442	Local	241
Holmesville	Railway station	Killingworth Road		Local	104
Holmesville	House	32 Seaham Street	Lot 42, Section B, DP 4479	Local	105
Holmesville	House	20 William Street	Lot 14, Section E, DP 5432	Local	106
Kahibah	Glenrock Railway and mine entrance and early coal mining sites	Glenrock State Recreation Area	Lot 1, DP 523208; Lot 21, DP 575387	State	107
Killingworth	Former Killingworth Hotel	39 Killingworth Road	Lot 13, Section E, DP 4339	Local	109
Killingworth	Elcom Newcastle Substation	101 Killingworth Road	Lots 1 and 2, DP 619513	Local	108
Killingworth	Soldier's Memorial	26 The Broadway	Lot 1, Section D, DP 4339	Local	110
Kotara South	Raspberry Gully Line Railway	Opposite Dalpura Lane to the Main Northern Railway Line, near Adamstown along Styx Creek		Local	112
Kotara South	South Waratah Colliery	31 Kirkdale Drive	Lot 132, DP 243393	Local	111
Little Pelican	Little Pelican cottages and site		Lot 7036, DP 1030788	Local	228
Marks Point	House	15 Haddon Crescent	Lot 1, DP 124241	Local	229
Martinsville	Former Union Church	447 Martinsville Road	Lot A, DP 4329	Local	242
Martinsville	Former Martinsville Public School	495 Martinsville Road	Lot 157, DP 823773	Local	113
Martinsville	Dora Creek bridge	Owens Road		Local	114
Martinsville	Farm house "Wonga Hill"	324 Owens Road	Lot 63, DP 661760	Local	115
Martinsville	House "Woodside"	32 Wilkinson Road	Lot 1, DP 741192	Local	116
Morrisset	Morrisset High School	33 Bridge Street	Lot 3, Section 40, DP 758707	Local	117

Suburb	Item name	Address	Property description	Significance	Item no
Morrisset	Morrisset Hospital precinct, including: wards 5 and 6, ward 9 (clinical department), wards 10, 12 and 17 (general psychiatry), recreation hall, the main store, residence nos 1 and 3, cottage row (residence nos 16–21), maximum security division, the chapel, and water supply dam— Pourmalong Creek	84 Bridge Street,	Lots 1 and 2, DP 880557	State	118
Morrisset	Stationmaster's house	58 Dora Street	Part Lot 1, DP 1002965	Local	119
Morrisset	Mullard Chambers Building	71 Dora Street	Lot 1, DP 215590	Local	230
Morrisset	Community hall	77 Dora Street	Lot 2, DP 590896	Local	231
Morrisset	Tree—Morrisset's Campsite	147 Macquarie Street	Lot 7045, DP 93593	Local	120
Nords Wharf	"Nords Wharf"	43c Nords Wharf Road	PO 1970/126	Local	122
Pelican	Cabbage trees	5, 25 and 35 Soldiers Road	Lots 102 and 103, DP 755233; Lot 135, DP 1151226	Local	123
Rathmines	Catalina Memorial Nursing Home	171 Dorrington Road	Lot 2, DP 226531	Local	124
Rathmines	Boat slip	1 Overhill Road	Lot 64, DP 596913	Local	130
Rathmines	Brick store	1 Overhill Road	Lot 64, DP 596913	Local	129
Rathmines	Catalina War Memorial	1 Overhill Road	Lot 64, DP 596913	Local	128
Rathmines	Catamaran Club	1 Overhill Road	Lot 64, DP 596913	Local	126
Rathmines	Community hall	1 Overhill Road	Lot 64, DP 596913	Local	125
Rathmines	Flying boat ramps	1 Overhill Road	Lot 64, DP 596913	Local	127
Rathmines	Rathmines Bowling Club	1 Stilling Street	Lot 4, DP 226533	Local	131
Rathmines	Christadelphian School	2 Stilling Street	Lot 5, DP 226534	Local	132
Rathmines	Rathmines Holiday Camp	3 Stilling Street	Lot 1, DP 226530	Local	133

Suburb	Item name	Address	Property description	Significance	Item no
Rathmines	Emergency radio bunkers	115 Wangi Road	Lot 446, DP 1138964	Local	232
Rathmines	Rathmines Park, former RAAF Seaplane Base	Area bounded by Lake Macquarie, The Circlet, Rosemary Row and Overhill Road	Lots 37–49, Part Lot 50 and Part Lot 51, DP 11537; Lot 4, DP 704472; Lot 1, DP 226530; Lot 2, DP 226531; Lot 3, DP 226532; Lot 4, DP 226533; Lot 5, DP 226534; Lot 7, DP 516152; Lot 60, DP 584602; Lots 62–64, DP 596913; Lots 648 and 654, DP 806611	State	244
Redhead	Shark tower	2A Beach Road	Lot 1412, DP 755233	Local	243
Redhead	Mine manager's house	21 Elsdon Street	Lot 201, DP 1176413	Local	134
Redhead	Lambton Colliery	1 Geraldton Drive	Lot 68, DP 878840	Local	135
Redhead	Under-manager's house	17 Geraldton Drive	Lot 7, DP 878840	Local	136
Redhead	"The Gables"	87 Redhead Road	Lot 4, DP 737493	Local	137
Speers Point	House	41 Albert Street	Lot 1, DP 962726	Local	138
Speers Point	House	18 Alley Street	Lot 11, DP 525378	Local	139
Speers Point	House	37 Alley Street	Lot 1, DP 587774	Local	140
Speers Point	House	8 Council Street	Lot 1, DP 521920	Local	141
Speers Point	House	10 Council Street	Lot 1, DP 518527	Local	142
Speers Point	Lakeview Street Theatre	81 Lakeview Street	Lot 14, Section B, DP 4063	Local	143
Speers Point	House	141 Main Road	Lot 1, DP 368588	Local	144
Speers Point	Former Lake Macquarie Council Chambers	143 Main Road	Lot 13, DP 810700	Local	145

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Speers Point	Speers Point Garage	155 Main Road	Lot 12, Section A, DP 4063	Local	146
Speers Point	House “Shangrila”	157 Main Road	Lot 11, Section A, DP 4063	Local	147
Speers Point	House	159 Main Road	Lot 10, Section A, DP 4063	Local	148
Speers Point	Speers Point Park (including shelter shed and minenwerfer (or german mortar))	15 Park Road	Lot 1, DP 998238	Local	149
Speers Point	Cottage	64 Speers Street	Lot 1, DP 348879	Local	150
Speers Point	House	66 Speers Street	Lot 3, DP 562487	Local	151
Speers Point	House	74 Speers Street	Part Lot 1, DP 956798	Local	152
Speers Point	House	214 The Esplanade	Lot 1, DP 108865	Local	153
Speers Point	House	282 The Esplanade	Lot 145, DP 558308	Local	157
Speers Point	House	302 The Esplanade	Lot 32, DP 564214	Local	156
Speers Point	House	332 The Esplanade	Lot 4, DP 350608	Local	155
Speers Point	House “The Knoll”	374 The Esplanade	Lot 3, DP 786053	Local	154
Swansea	The Swansea Hotel	196 Pacific Highway	Lot 12, DP 1101804	Local	158
Swansea Heads	Coast guard station	3a Lambton Parade	Lot 548, DP 39981	Local	159
Swansea Heads	Reid’s Mistake (head and channel)	7a Lambton Parade	Part Reserve 88033	Local	160
Teralba	Great Northern Hotel	2 Anzac Parade	Lot 7, Section A, DP 447469	Local	161
Teralba	Shop	10 Anzac Parade	Lot 1, DP 999965	Local	162
Teralba	Teralba Cemetery Billygoat Hill	20 Pitt Street	Lot 31, DP 858667	Local	163
Teralba	House “AS”	101 Railway Street	Lot 261, DP 554269	Local	164
Teralba	Station master’s cottage	150 Railway Street	Lot 3, DP 831957	Local	165
Teralba	Gartlee Mine	159 Railway Street	Lot 102, DP 1131669	Local	166

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Teralba	Rhondda Colliery	282 and 284 Rhondda Road	Lot 101, DP 1073163; Lot 76, DP 755262	Local	167
Teralba	Teralba Public School	57 York Street	Lot 2, DP 795123	Local	168
Teralba	House "Moria"	59 York Street	Lot 17, DP 816302	Local	169
Teralba	Former co-operative Store	75 York Street	Lot 18, DP 1158353	Local	246
Teralba, Wakefield	Rhondda Colliery Railway	From West Wallsend railway on the north side of Stockton Borehole Colliery to the Rhondda Colliery south of Rhondda Road, Teralba	Lot 5, DP 849719; Lot 101, DP 1073163	Local	170
Toronto	Boatman's cottage, lakefront boathouse and winches, lakefront and house	4 Arnott Avenue	Lot 1, DP 950464	Local	171
Toronto	Restaurant	6 Arnott Avenue	Lots 12-15, DP 456286	Local	172
Toronto	Royal Motor Yacht Club annexe	6 Arnott Avenue	Lots 1-4, DP 1113453	Local	173
Toronto	Toronto Cemetery	354 Awaba Road	Lots 7044-7046, DP 1052029; Lot 7058, DP 1052031	Local	174
Toronto	Station master's Cottage	98 Brighton Avenue	Lot 1, DP 125979	Local	175
Toronto	House "McGeachie's"	109 Brighton Avenue	Lot 2, DP 515029	Local	176
Toronto	House "Manuka"	182 Excelsior Parade	Lot 461, DP 589541	Local	177
Toronto	House	16 Hunter Street	Lot 111, DP 596414	Local	178
Toronto	Winn's house	19 Hunter Street	Lot 100, DP 717511	Local	179
Toronto	House "The Moorings"	2 Jarrett Street	Lot 1, DP 1108227	Local	180
Toronto	Cottage	6 Renwick Street	Lot 21, Section 7, DP 4236	Local	181
Toronto	House	23 Renwick Street	Lot 2, DP 350492	Local	182
Toronto	Convent of Mercy	26 Renwick Street	Lot 2122, DP 1116609	Local	183



Suburb	Item name	Address	Property description	Significance	Item no
Toronto	House "Burnbrae"	32 Renwick Street	Lot 1, DP 122786	Local	184
Toronto	Building restaurant	24 Victory Parade	Lot 1, DP 301366	Local	185
Toronto	Toronto Hotel	74 Victory Parade	Lot 201, DP 549239	Local	186
Toronto	Former railway station	16 Victory Row	Lot 220, DP 1021925	Local	187
Toronto	Frith's store	66-74 The Boulevard	Lot 1, DP 1154114	Local	188
Various	Great Northern Railway	Line passes through Lake Macquarie City from Garden Suburb to Wye		Local	189
Wangi Wangi	House "Dobell House"	47 Dobell Drive	Lot 13, DP 8840	Local	190
Wangi Wangi	Wangi Power Station	80 Donnelly Road	Lot 101, DP 880089	State	191
Wangi Wangi	Gun emplacements	24 Reserve Road	Lot 526, DP 662836	Local	233
Warners Bay	Mine pithead and coal tramway to lake	Follows creek from below Barbara Street to the lake between Howard and James Streets		Local	193
Warners Bay	Cottage	17 Daydawn Avenue	Lot 10, DP 651218	Local	234
Warners Bay	House "Ali's Palace"	6 Fairfax Road	Part Lot 1, and Lots 2 and 34, DP 20222	Local	192
West Wallsend	Cottage	12 Carrington Street	Lot 6, Section Z, DP 3809	Local	194
West Wallsend	Cottage	15 Carrington Street	Lot 15, Section D, DP 2252	Local	195
West Wallsend	House "Earsdon Cottage"	20 Carrington Street	Lot A, DP 370073	Local	196
West Wallsend	Former shop, doctors surgery and house	47 Carrington Street	Lot 16, Section C, DP 2252	Local	197
West Wallsend	Soldiers' Memorial and park	49 Carrington Street	Lot 1, DP 301342	Local	198
West Wallsend	Workers' Club	51 Carrington Street	Lot 11, DP 863266	Local	199
West Wallsend	Former shop and house	52 Carrington Street	Lot 2, Section G, DP 2252	Local	200
West Wallsend	Post office and residence	54 Carrington Street	Lot 1, Section G, DP 2252	Local	201

Suburb	Item name	Address	Property description	Significance	Item no
West Wallsend	Clyde Inn Hotel	57 Carrington Street	Lot 12, Section B, DP 2252	Local	202
West Wallsend	House	59 Carrington Street	Lot A, DP 382915	Local	203
West Wallsend	Former school of arts	65 Carrington Street	Lot 21, DP 875161	Local	204
West Wallsend	West Wallsend Co-op	76a Carrington Street, 6-8 Withers Street	Lots 7-9, Section E, DP 2252	Local	205
West Wallsend	West Wallsend Cemetery	Cemetery Road	Lots 980 and 981, DP 589701	Local	206
West Wallsend	West Wallsend Valve House and underground reservoir	30a George Booth Drive	Lot 1, DP 923587	Local	207
West Wallsend	Former Northumberland Hotel	1 Hyndes Street	Lot 11, DP 565278	Local	208
West Wallsend	Catholic Church and Convent	5 Hyndes Street	Lots 15 and 16, Section G, DP 2252; Lots 1 and 2, DP 500232	Local	209
West Wallsend	West Wallsend Football Club ground (Johnson Park)	3 Laidley Street	Lot 1, DP 421411	Local	210
West Wallsend	Cottage	8 Laidley Street	Lot B, DP 319636	Local	211
West Wallsend	Mt Sugarloaf and the Sugarloaf Range	Mt Sugarloaf Road	Lots 1 and 2, DP 231108; Lot 21, DP 223395; Lot 1, DP 207238; Lot 1, DP 338999; Lot 121, DP 755262	Local	212
West Wallsend	Mt Sugarloaf No 1 Colliery	Mt Sugarloaf Road	Lot 7, DP 813135	Local	213
West Wallsend	Presbyterian Church	48a Wallace Street	Lot 1, Section O, DP 2253	Local	214
West Wallsend	Baptist Church	49 Wallace Street	Lot 15, Section K, DP 2252	Local	215
West Wallsend	Miners' Memorial	49a Wallace Street	Lot 8, Section J, DP 2252	Local	217

Suburb	Item name	Address	Property description	Significance	Item no
West Wallsend	West Wallsend Public School	49a Wallace Street	Lots 5–12, Section J, DP 2252; Lot 1, DP 415746; Lot 1, DP 103681; Lot 1, DP 203314; Lot 1, DP 418805	Local	216
West Wallsend	Former Anglican Church	11 Wallsend Road	Lot 81, DP 1143907	Local	235
West Wallsend	West Wallsend (No 1) Colliery	Off Wilson Street	Part Lot 106, DP 1000408	Local	220
West Wallsend	Cottage	53 Wilson Street	Lot B, DP 315094	Local	218
West Wallsend	Museum Hotel	70 Wilson Street	Lot 21, DP 700424	Local	219
Whitebridge	Captain Bulls garden	76 Bulls Garden Road	Lot 10, DP 220823	Local	221
Whitebridge	House	105 Burwood Road	Lot 7, DP 800730	Local	222
Whitebridge	Whitebridge Cemetery	132a Dudley Road	Lots 1697, 1698 and 1731, DP 755233	Local	223
Wye	Wye coal conveyor railway loop	North of Wye to Vales Point Power Station		Local	225
Wye	Wye Channel	Extending north from the Wye Dam and passing under Summerhayes Road		Local	226

## Part 2 Heritage conservation areas

Name of heritage conservation area	Identification on Heritage Map	Significance
Catherine Hill Bay Conservation Area	Shown by red hatching and labelled "C1"	Local
Catherine Hill Bay State Conservation Area	Shown by red hatching and labelled "C4"	State
Teralba Conservation Area	Shown by red hatching and labelled "C2"	Local
West Wallsend Conservation Area	Shown by red hatching and labelled "C3"	Local

### Part 3 Archaeological sites

Suburb	Item name	Address	Property description	Significance	Item no
Awaba	Railway station cottage	Off Adelaide Street	Within rail corridor	Local	A1
Belmont	Former mine site	180 Ross Street, Green Point Reserve	Lot 2, DP 845516	Local	A12
Belmont North	Former John Darling Colliery	John Fisher Road, Siloam Drive, John Fallins Close and John Darling Avenue	Lots 2–8, DP 1038830; Lots 1–5, 7–9, 12–14, 16–17, 19–20, 22 and 23–25, DP 270530; Lots 201–207, 209–221, 225 and 226, DP 1136649; Lots 231 and 232, DP 1183282; Lots 1 and 2, DP 1153652; Lots 301–328 and 330, DP 1148102; Lots 91 and 92, DP 1178720; Lots 501–505, DP 1156100; Lots 1 and 2, DP 1159382; Lots 1 and 2, DP 1169197	Local	A13
Blackalls Park	Fossil Tree reserve	40 Aldon Crescent	Reserve 38237; Lot 7035, DP 92703	Local	A2
Blackalls Park	Fossil tree sections	Venetia Avenue	Lot 6, DP 12604	Local	A3
Catherine Hill Bay	Wallahah East Pit	Flowers Drive	Lots 1, 2, 4 and 6, DP 1180181	Local	A4
Catherine Hill Bay	Wharf	Middle Camp Beach	Lot 204, DP 1164883	Local	A5
Fassifern	Newstan Colliery	Fassifern Road	Various Lots	Local	A6
Redhead	Lambton Colliery	Various Streets	Various Lots	Local	A7
Swansea Heads	Numerous fossil tree stumps preserved in situ (remains of fossil forest)	Off Lambton Parade	Adjacent to Reserve 88033 and DP 39981	Local	A8
Teralba	Amos Bros. Quarry	Rhondda Road and Old Main Road	Lot 2, DP 224037; Lot 261, DP 755207; Lot 33, DP 858667	Local	A9

Suburb	Item name	Address	Property description	Significance	Item no
Tingara Heights	Nature reserve and being permian fossil insect horizon	Burton Road	Lot 180, DP 755233 and area from Belmont to Warners Bay depicted on Map prepared by OLEM Knight, titled Permian Fossil Horizon Belmont—Warners Bay 1949 (Records of the Australian Museum 1950)	Local	A10
Whitebridge	North Burwood Colliery	Various streets	Various lots	Local	A11

#### Part 4 Landscape items

Suburb	Address	Property description	Significance	Item no
Lake Macquarie	Pulbah Island	Pulbah Island	Local	L1

## 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.

**Aboriginal place of heritage significance** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be 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 may (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.

**Note.** The term may include (but is not limited to) places that are declared under section 84 of the *National Parks and Wildlife Act 1974* to be Aboriginal places for the purposes of that Act.

**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 Lake Macquarie Local Environmental Plan 2014 Acid Sulfate Soils Map.

**Additional Permitted Uses Map** means the Lake Macquarie Local Environmental Plan 2014 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. Advertising structures are a type of **signage**—see the definition of that term in this Dictionary.

**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 a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, 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.

**Note.** Agricultural produce industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**agriculture** means any of the following:

- (a) aquaculture,
- (b) extensive agriculture,

- (c) intensive livestock agriculture,
- (d) intensive plant agriculture.

**Note.** Part 6 of the *Plantations and Reafforestation Act 1999* provides that exempt farm forestry within the meaning of that Act is not subject to the *Environmental Planning and Assessment Act 1979*.

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

**Note.** Airports are a type of **air transport facility**—see the definition of that term in this Dictionary.

**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.** Aquaculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**archaeological site** means a place 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, and
- (c) none of the dwellings is located above any part of another dwelling.

**Note.** Attached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**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 a building or place that:

- (a) provides temporary or short-term accommodation on a commercial basis, and
- (b) has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (c) provides accommodation on a bed or dormitory-style basis (rather than by room).

**Note.** Backpackers' accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**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 an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (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 for bed and breakfast accommodation.

Bed and breakfast accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**bee keeping** means a building or place used for the keeping and breeding of bees for commercial purposes.

**Note.** Bee keeping is a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**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.

**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.

**Note.** Biosolids treatment facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

**boarding house** means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) 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, hotel or motel accommodation, seniors housing or a serviced apartment.

**Note.** Boarding houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**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.

**Note.** This definition is relevant to the definitions of **home occupation (sex services)** and **sex services premises** in this Dictionary.

**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) and 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 does not include general advertising of products, goods or services.

**Note.** Building identification signs are a type of **signage**—see the definition of that term in this Dictionary.



**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 the principal purpose of which is the sale, 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, and
- (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,

and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, 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.

**Note.** Bulky goods premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**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 contain any advertising relating to a person who does not carry on business at the premises or place.

**Note.** Business identification signs are a type of **signage**—see the definition of that term in this Dictionary.

**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 includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

**Note.** Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

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

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

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

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

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

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

**cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most 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.

**Note.** Cellar door premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**cemetery** means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.

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

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

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

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

**Coastal Risk Map** means Lake Macquarie Local Environmental Plan 2014 Coastal Risk Map.

**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.

**commercial premises** means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

**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 Lake Macquarie City Council.

**crematorium** means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

**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 that is conducted on a commercial basis where the only restriction facilities present are 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).

**Note.** Dairies (pasture-based) are a type of **extensive agriculture**—see the definition of that term in this Dictionary.

**dairy (restricted)** means a dairy that is conducted on a commercial basis where restriction facilities (in addition to milking sheds and holding yards) are present and where cattle have access to grazing for less than 10 hours in any 24 hour period (excluding during any period of drought or similar emergency relief). It may comprise the whole or part of a restriction facility.

**Note.** Dairies (restricted) are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

**demolish**, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or 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, but does not include a farm building.

**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) land required for regional open space,
- (d) 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 a dual occupancy (attached) or a dual occupancy (detached).

**Note.** Dual occupancies are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

**Note.** Dual occupancies (attached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

**dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

**Note.** Dual occupancies (detached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

**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.

**Note.** Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**earthworks** means excavation or filling.

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

**eco-tourist facility** means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

**Note.** See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**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) Ambulance Service of New South Wales,
- (b) Fire and Rescue NSW,
- (c) NSW Rural Fire Service,
- (d) NSW Police Force,
- (e) State Emergency Service,
- (f) New South Wales Volunteer Rescue Association Incorporated,
- (g) 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, but does not include coastal protection works.

**Environmentally Sensitive Land Map** means the Lake Macquarie Local Environmental Plan 2014 Environmentally Sensitive Land Map.

**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 any of the following:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock for commercial purposes,
- (c) bee keeping,
- (d) a dairy (pasture-based).

**Note.** Extensive agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**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.

**Note.** Extractive industries are not a type of **industry**—see the definition of that term in this Dictionary.

**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 a building or place that provides temporary or short-term accommodation 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.

Farm stay accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

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

**Note.** Feedlots are a type of **intensive livestock agriculture**—see the definition of that term in this Dictionary.

**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 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.

**Flood Planning Map** means the Lake Macquarie Local Environmental Plan 2014 Flood Planning Map.

**floor space ratio**—see clause 4.5.

**Floor Space Ratio Map** means the Lake Macquarie Local Environmental Plan 2014 Floor Space Ratio Map. [Not adopted. See clause 4.4.]

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**Note.** Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**foreshore area** means the land between the foreshore building line and the mean high water mark of the nearest bay or river.

**foreshore building line** means:

- (a) the line that is landward of, and at the distance specified on, the Foreshore Building Line Map from the mean high water mark of the nearest natural waterbody shown on that map, or
- (b) if no distance is specified, the line shown as the foreshore building line on that map

**Foreshore Building Line Map** means the Lake Macquarie Local Environmental Plan 2014 Foreshore Building Line Map.

**forestry** has the same meaning as **forestry operations** has for the purposes of Part 5A of the *Forestry Act 2012*.

**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) the harvesting of forest products, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning and other silvicultural activities such as bee-keeping, grazing and bush fire hazard reduction, 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 home** means premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons.

**Note.** Funeral homes are a type of **business premises**—see the definition of that term in this Dictionary.

**garden centre** means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

**Note.** Garden centres are a type of **retail premises**—see the definition of that term in this Dictionary.

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

**Note.** General industries are a type of **industry**—see the definition of that term in this Dictionary.

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

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

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (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 permanent group home or a transitional group home.

**Note.** Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**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.

**Note.** Permanent group homes are a type of **group home**—see the definition of that term in this Dictionary.

**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 refugees 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.

**Note.** Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.

**hardware and building supplies** means a building or place the principal purpose of which is the sale or hire of goods or materials, such as household fixtures, timber, tools, paint, wallpaper, plumbing supplies and the like, that are used in the construction and maintenance of buildings and adjacent outdoor areas.

**Note.** Hardware and building supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**hazardous industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality:

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

**Note.** Hazardous industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

**hazardous storage establishment** means a building or place that is used for the storage of goods, materials or products and that would, 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 building or place from existing or likely future development on other land in the locality), pose a significant risk in the locality:

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

**Note.** Hazardous storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**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 premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

**Note.** Health consulting rooms are a type of **health services facility**—see the definition of that term in this Dictionary.

**health services facility** means a building or place used 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 any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

**heavy industrial storage establishment** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and that requires separation from other development because of the nature of the processes involved, or the goods, materials, plant or machinery stored, and includes any of the following:

- (a) a hazardous storage establishment,
- (b) a liquid fuel depot,
- (c) an offensive storage establishment.

**heavy industry** means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes:

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

**Note.** Heavy industries are a type of **industry**—see the definition of that term in this Dictionary.

**Height of Buildings Map** means the Lake Macquarie Local Environmental Plan 2014 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 that is 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.

**Note.** Heliports are a type of **air transport facility**—see the definition of that term in this Dictionary.

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

- (a) shown on the Heritage Map as a heritage conservation area, 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 Division of the Government Service responsible to the Minister administering the *Heritage Act 1977* 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 or 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, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

**Note.** An inventory of heritage items is also available at the office of the Council.

**Direction.** Heritage items must be shown on the Heritage Map.

**heritage management document** means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Heritage Map** means the Lake Macquarie Local Environmental Plan 2014 Heritage Map.

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

**high technology industry** means a building or place predominantly used to carry out an industrial activity that involves any of the following:

- (a) electronic or micro-electronic systems, goods or components,
- (b) information technology (such as computer software or hardware),
- (c) instrumentation or instruments of a scientific, industrial, technological, medical or similar nature,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components,
- (e) film, television or multi-media technologies, including any post production systems, goods or components,
- (f) telecommunications systems, goods or components,
- (g) sustainable energy technologies,
- (h) any other goods, systems or components intended for use in a science or technology related field,

but does not include a building or place used to carry out an industrial activity that presents a hazard or potential hazard to the neighbourhood or that, because of the scale and nature of the processes involved, interferes with the amenity of the neighbourhood.

**Note.** High technology industries are a type of **light industry**—see the definition of that term in this Dictionary.

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

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) 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 that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and 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 signage (other than a business identification sign), 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 for a home business.

**home industry** means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (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,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (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 for a home industry.

Home industries are a type of **light industry**—see the definition of that term in this Dictionary.

**home occupation** means an occupation that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more 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, 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 signage (other than a business identification sign), 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, home occupation (sex services) or sex services premises.

**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 signage, 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 a plant nursery, turf farming or viticulture.

**Note.** Horticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

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

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops, kiosks, restaurants or cafes or take-away food and drink premises,
- (e) patient transport facilities, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

**Note.** Hospitals are a type of **health services facility**—see the definition of that term in this Dictionary.

**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.

**Note.** Hostels are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**hotel or motel accommodation** means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and
- (b) 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.

**Note.** Hotel or motel accommodation is a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**industrial activity** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

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

- (a) is used in conjunction with an industry or rural industry, and
- (b) is situated on the land on which the industry or rural industry is located, 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 or rural industry is located, but does not include a warehouse or distribution centre.

**Note.** See clause 5.4 for controls relating to the retail floor area of an industrial retail outlet.

**industrial training facility** means a building or place used in connection with vocational training in an activity (such as forklift or truck driving, welding or carpentry) that is associated with an industry, rural industry, extractive industry or mining, but does not include an educational establishment, business premises or retail premises.

**industry** means any of the following:

- (a) general industry,
- (b) heavy industry,
- (c) light industry,

but does not include:

- (d) rural industry, or
- (e) extractive industry, or
- (f) mining.

**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, pigs, goats, horses or other livestock that are fed wholly or substantially on externally-sourced feed, and includes any of the following:

- (a) dairies (restricted),
- (b) feedlots,
- (c) piggeries,
- (d) poultry farms,

but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

**Note.** Intensive livestock agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

**intensive plant agriculture** means any of the following:

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

**Note.** Intensive plant agriculture is a type of **agriculture**—see the definition of that term in this Dictionary.

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

**Key Sites Map** means the Lake Macquarie Local Environmental Plan 2014 Key Sites Map.

**kiosk** means premises that are 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 of a kiosk.

Kiosks are a type of **retail premises**—see the definition of that term in this Dictionary.

**Land Application Map** means the Lake Macquarie Local Environmental Plan 2014 Land Application Map.

**Land Reservation Acquisition Map** means the Lake Macquarie Local Environmental Plan 2014 Land Reservation Acquisition Map.

**Land Zoning Map** means the Lake Macquarie Local Environmental Plan 2014 Land Zoning Map.

**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.

**landscaping material supplies** means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like.

**Note.** Landscaping material supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**light industry** means a building or place used to carry out an industrial activity that does 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, and includes any of the following:

- (a) high technology industry,
- (b) home industry.

**Note.** Light industries are a type of **industry**—see the definition of that term in this Dictionary.

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

**Note.** Liquid fuel depots are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**livestock processing industry** means a building or place used for 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 abattoirs, knackeries, tanneries, woollscours and rendering plants.

**Note.** Livestock processing industries are a type of **rural industry**—see the definition of that term in this Dictionary.

**Lot Size Map** means the Lake Macquarie Local Environmental Plan 2014 Lot Size Map.

**maintenance**, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but 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 a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:

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

**market** means an open-air area, or an existing building, that is 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.

**Note.** Markets are a type of **retail premises**—see the definition of that term in this Dictionary.

**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 premises that are 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. It may include the ancillary provision of other health services.

**Note.** Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

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

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

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

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

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

**Note.** Mining is not a type of **industry**—see the definition of that term in this Dictionary.

**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, but does not include a mooring pen.

**mooring pen** means an arrangement of freestanding piles or other restraining devices designed or used for the purpose of berthing 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, each with access at ground level, but does not include a residential flat building.

**Note.** Multi dwelling housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

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

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

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

**Meaning of “native vegetation”**

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

**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 premises used for the purposes of selling general merchandise 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 of neighbourhood shops.

Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

**nominated State heritage item** means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

**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 a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity 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 existing or likely future development on other land in the locality.

**Note.** Offensive industries are a type of **heavy industry**—see the definition of that term in this Dictionary.

**offensive storage establishment** means a building or place that is used for the storage of goods, materials or products 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 building or place 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 existing or likely future development on other land in the locality.

**Note.** Offensive storage establishments are a type of **heavy industrial storage establishment**—see the definition of that term in this Dictionary.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Note.** Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**open cut mining** means mining carried out on, and by excavating, the earth's surface, but does not include underground mining.

**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.

**people who are socially disadvantaged** means:

- (a) people who are disadvantaged because of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or
- (b) people who require protection because of domestic violence or upheaval.

**people with a disability** means people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives.

**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.

**plant nursery** means a building or place the principal purpose of which is the retail sale of plants that are grown or propagated on site or on an adjacent site. It may include the on-site sale of any such plants by wholesale and, if ancillary to the principal purpose for which the building or place is used, the sale of landscape and gardening supplies and equipment and the storage of these items.

**Note.** Plant nurseries are a type of **retail premises**—see the definition of that term in this Dictionary.

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

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

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

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

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

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

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

**pub** means licensed premises under the *Liquor Act 2007* the principal purpose of which is the retail 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.

**Note.** Pubs are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**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,
- (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 theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

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

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

**registered club** means a club that holds a club licence under the *Liquor Act 2007*.

**relic** has the same meaning as in the *Heritage Act 1977*.

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

**relic** means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

**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, and includes any of the following:

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

**residential care facility** means accommodation for seniors 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,

but does not include a dwelling, hostel, hospital or psychiatric facility.

**Note.** Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

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

**Note.** Residential flat buildings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**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, composting, 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.

**Note.** Resource recovery facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**respite day care centre** means a building or place that is used for the care of seniors or people who have a disability and that does not provide overnight accommodation for people other than those related to the owner or operator of the centre.

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided.

**Note.** Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**restricted premises** means 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 a pub, hotel or motel accommodation, 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 hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note.** Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**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 the retail sale 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 of roadside stalls.

Roadside stalls are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural industry** means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

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

**Note.** Rural industries are not a type of **industry**—see the definition of that term in this Dictionary.

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

**Note.** Rural supplies are a type of **retail premises**—see the definition of that term in this Dictionary.

**rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

**Note.** Rural workers' dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**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.

**Note.** Sawmill or log processing works are a type of **rural industry**—see the definition of that term in this Dictionary.

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

**Note.** Schools are a type of **educational establishment**—see the definition of that term in this Dictionary.

**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 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 of secondary dwellings.

Secondary dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

**Note.** Self-storage units are a type of **storage premises**—see the definition of that term in this Dictionary.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

**Note.** Semi-detached dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

**seniors housing** means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

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 building or place or in the provision of services to persons living in the building or place,

but does not include a hospital.

**Note.** Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

**Sensitive Aboriginal Landscape Map** means the Lake Macquarie Local Environmental Plan 2014 Sensitive Aboriginal Landscape Map.

**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 accommodation to tourists or visitors on a commercial basis and 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.

**Note.** Serviced apartments are a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**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.

**Note.** Sewage reticulation systems are a type of **sewerage system**—see the definition of that term in this Dictionary.

**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.

**Note.** Sewage treatment plants are a type of **sewerage system**—see the definition of that term in this Dictionary.

**sewerage system** means any of the following:

- (a) biosolids treatment facility,
- (b) sewage reticulation system,
- (c) sewage treatment plant,
- (d) water recycling facility,
- (e) a building or place or place that is a combination of any of the things referred to in paragraphs (a)–(d).

**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 premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

**Note.** Shops are a type of **retail premises**—see the definition of that term in this Dictionary.

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**Note.** Shop top housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.



**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 any of the following:

- (a) an advertising structure,
- (b) a building identification sign,
- (c) a business identification sign,

but does not include a traffic sign 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.

**small bar** means a small bar within the meaning of the *Liquor Act 2007*.

**Note.** Small bars are a type of **food and drink premises**—see the definition of that term in this Dictionary.

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

**Note.** Stock and sale yards are a type of **rural industry**—see the definition of that term in this Dictionary.

**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 industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.

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

**Note.** Take away food and drink premises are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**telecommunications facility** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, fibre access node, interconnect point equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure in connection with a telecommunications network, or
- (c) any other thing 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.

**Terrestrial Biodiversity Map** means the Lake Macquarie Local Environmental Plan 2014 Terrestrial Biodiversity Map.

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

**timber yard** means a building or place the principal purpose of which is the sale of sawn, dressed or treated timber, wood fibre boards or similar timber products. It may include the cutting of such timber, boards or products to order and the sale of hardware, paint, tools and materials used in conjunction with the use and treatment of timber.

**Note.** Timber yards are a type of **retail premises**—see the definition of that term in this Dictionary.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following:

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include:

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

**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 business, industry, shop or passenger or freight transport undertaking.

**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.

**Note.** Turf farming is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**urban release area** means an area of land shown coloured and identified by locality on the Urban Release Area Map.

**Urban Release Area Map** means the Lake Macquarie Local Environmental Plan 2014 Urban Release Area Map.

**underground mining** means:

- (a) mining carried out beneath the earth's surface, including bord and pillar mining, longwall mining, top-level caving, sub-level caving and auger mining, and
- (b) shafts, drill holes, gas and water drainage works, surface rehabilitation works and access pits associated with that mining (whether carried out on or beneath the earth's surface),

but does not include open cut mining.

**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 to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

**vehicle sales or hire premises** means a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

**Note.** Vehicle sales or hire premises are a type of **retail premises**—see the definition of that term in this Dictionary.

**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 use in the commercial production of fresh or dried fruit or wine.

**Note.** Viticulture is a type of **intensive plant agriculture**—see the definition of that term in this Dictionary.

**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.

**Note.** Waste disposal facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**waste or resource management facility** means any of the following:

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

**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.

**Note.** Waste or resource transfer stations are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.

**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.

**Note.** Water recycling facilities are a type of **sewerage system**—see the definition of that term in this Dictionary.

**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.

**Note.** Water reticulation systems are a type of **water supply system**—see the definition of that term in this Dictionary.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**Note.** Water storage facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

**water supply system** means any of the following:

- (a) a water reticulation system,
- (b) a water storage facility,
- (c) a water treatment facility,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

**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.

**Note.** Water treatment facilities are a type of **water supply system**—see the definition of that term in this Dictionary.

**waterbody** means a waterbody (artificial) or waterbody (natural).

**waterbody (artificial)** or **artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

**waterbody (natural)** or **natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgeland, 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, sedgeland 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.

**wharf or boating facilities** means a wharf or any of the following facilities associated with a wharf or boating that are not port facilities:

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

**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.