



New South Wales

Environmental Planning and Assessment (Cessnock City Council Planning Panel) Order 2010

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of sections 118 and 118AA of the *Environmental Planning and Assessment Act 1979*, make the following Order.

Dated, this 16th day of August 2010.

TONY KELLY, MLC
Minister for Planning

Explanatory note

The object of this Order is to establish the Cessnock City Council Planning Panel as a planning assessment panel and to confer on that panel certain functions of the Cessnock City Council relating to environmental planning instruments and development applications.

This Order is made under sections 118 and 118AA of the *Environmental Planning and Assessment Act 1979*.

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1 Name of Order

This Order is the *Environmental Planning and Assessment (Cessnock City Council Planning Panel) Order 2010*.

2 Commencement

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

3 Definitions

(1) In this Order:

amending LEP means a LEP that (apart from provisions for citation, commencement, definitions, purpose, land to which it applies and similar ancillary provisions) contains only direct amendments to or repeals of other environmental planning instruments. Any other LEP is a principal LEP even if it also contains direct amendments to or repeals of other environmental planning instruments.

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

the Council means Cessnock City Council.

the Panel means the planning assessment panel listed in Part 1 of Schedule 5B to the Act with the corporate name "Cessnock City Council Planning Panel".

(2) Notes in this Order do not form part of the Order.

4 Amendment of Schedule 5B to the Act to establish the Panel

Insert in alphabetical order in Part 1 of Schedule 5B to the Act:

Cessnock City Council Planning Panel

5 Appointment of Panel to exercise the Council's planning functions

(1) The Panel is appointed to exercise all functions of the Council:

- (a) as a consent authority under Part 4 of the Act, but only in relation to the assessment and determination of any development

application for development (other than development to which Part 3 of *State Environmental Planning Policy (Major Development) 2005* applies):

- (i) with an estimated cost of more than \$1,000,000, or
 - (ii) with an estimated cost of more than \$100,000, if the application has not been determined within 90 days after the date on which it was lodged, and
- (b) in relation to the making of amending (but not principal) LEPs under Part 3 of the Act.
- (2) The 90-day period referred to in subclause (1) (a) (ii) does not include the day on which the development application was lodged or the following day.
- (3) The functions that the Panel may exercise as a consent authority under Part 4 of the Act extend to any development application made, but not determined, before the commencement of this Order.
- (4) The functions that the Panel may exercise in relation to the making of an environmental planning instrument under Part 3 of the Act extend to the making of any plan whose making commenced before the commencement of this Order.
- (5) For the purpose of subclause (1) (a) (i) and (ii), the estimated cost of development is to be determined by reference to a genuine estimate of:
- (a) for any building to be erected:
 - (i) the costs associated with the construction of the building, and
 - (ii) the costs associated with the preparation of the building for the purpose for which it is to be used (such as the costs of installing plant, fittings, fixtures and equipment), and
 - (b) for any work to be carried out, the construction costs of the work, and
 - (c) for the demolition of any building or work, the costs of demolition.

Note. Section 118 (5) of the Act provides that if a panel exercises the functions of a council for a continuous period of more than 2 years, the Minister is, as soon as practicable after 2 years after the date on which the panel was appointed, to conduct a review of the appointment and functions of the panel.