

# Lake Macquarie Local Environmental Plan 2004

[2004-116]



New South Wales

## Status Information

### Currency of version

Current version for 10 November 2023 to date (accessed 18 March 2025 at 12:53)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 10 November 2023

# Lake Macquarie Local Environmental Plan 2004



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	10
1 Name of plan .....	10
2 Land to which plan applies .....	10
3 Objective of plan .....	10
4 Consent authority .....	10
5 Relationship to other environmental planning instruments .....	10
6 Notes .....	11
7 Definitions .....	11
8 Exempt development .....	11
9 Complying development .....	11
10 Development by public authorities .....	12
11 Determination of pending development applications .....	12
<b>Part 2 Lifestyle 2020 Strategy—vision, values and aims</b> .....	12
12 Vision .....	12
13 Values .....	12
14 Aims .....	12
<b>Part 3 General controls for land within zones</b> .....	13
15 General controls for land within zones .....	13
<b>Part 3A Controls relating to miscellaneous permissible uses</b> .....	53
15A Controls relating to bed and breakfast accommodation .....	53
15B Controls relating to farm stay accommodation .....	53

<b>Part 4 Special provisions applying to all land</b> .....	53
16 Development consent—matters for consideration .....	53
17 Provision of essential infrastructure .....	53
18 Temporary development of land .....	54
19 (Repealed) .....	54
20 Suspension of covenants, agreements or instruments .....	54
21 Exceptions to development standards .....	54
21A Conversion of fire alarms .....	56
21B Standards that cannot be used to refuse consent—playing and performing music.....	57
21C Public bushland .....	57
21D Canal estate development prohibited .....	60

**Part 5 Special controls for protection of the environment or for particular land**

.....	60
22 Foreshore building lines.....	60
23 Foreshore development and development below DP high water mark.....	61
24 Subdivision .....	61
25 Demolition .....	62
26 Dwelling houses and dual occupancies in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10 .....	62
27 Dwelling houses, small lot housing and dual occupancies in Zone 1 (2), 2 (1), 2 (2) or 7 (5).....	63
28 Dwelling houses on South Wallarah Peninsula in Zone 7 (1) .....	65
28A Residential flat buildings and multiple dwelling housing in Zone 2 (2).....	65
29 Building heights.....	65
30 Control of pollution .....	66
31 Erosion and sediment control .....	66
32 Flood prone land.....	67
33 Bush fire considerations .....	67
34 Trees and native vegetation .....	68
35 Acid sulfate soils.....	70
36 Mixed use development.....	72
37 Unzoned land.....	72
38 Advertising structures and signs .....	72
39 Additional development allowed on certain land.....	73

40 Development for the purpose of agriculture on land in Zone 7 (2).....	73
41 Development for the purpose of retirement villages .....	73
42 Consent to development subject to special requirements.....	74
42A Restricted development .....	74
42B Environmentally sensitive land.....	75
<b>Part 6 Heritage provisions</b> .....	<b>75</b>
43 Objective .....	75
44 Protection of heritage items and heritage conservation areas .....	75
45 Development consent is not required.....	76
46 Cemetery or burial grounds.....	76
47 Assessment of heritage significance .....	77
48 Development requiring notification .....	78
49 (Repealed) .....	78
50 Development affecting places or sites of known or potential Aboriginal heritage significance .....	78
51 Development affecting known or potential archaeological sites or relics of European heritage significance .....	78
52 Development in vicinity of a heritage item.....	79
53 Conservation incentives .....	80
54 Development in heritage conservation areas .....	80
<b>Part 7 Administrative provisions</b> .....	<b>80</b>
55 Acquisition of land required for community purposes .....	80
56 Interim development of land required for community purposes.....	81
57 Acquisition of land required for State roads.....	82
58 (Repealed) .....	82
59 Acquisition of coastal land.....	82
60 Development on land adjoining Zones 5, 7 (1), 7 (4) and 8 .....	83
61 Classification and reclassification of public land as operational land .....	84
62 Public infrastructure in urban release areas .....	85
<b>Part 8 Middle Camp site</b> .....	<b>86</b>
<b>Division 1 Preliminary</b> .....	<b>86</b>
63 Application of Part .....	86

64 Interpretation .....	86
65 Maps .....	87
66 Relationship with this Part and other environmental planning instruments.....	87
<b>Division 2 Provisions applying to development in Middle Camp site .....</b>	<b>87</b>
67 Land use zones.....	87
68 Objectives of land use zones to be taken into account.....	88
69 Zone R2 Low Density Residential .....	88
70 Zone RE1 Public Recreation.....	89
71 Zone E1 National Parks and Nature Reserves.....	89
72 Zone E2 Environmental Conservation .....	90
73 Subdivision—consent requirements .....	90
74 Height of buildings .....	90
75 Neighbourhood shops in Zone R2 Low Density Residential .....	90
76 Exceptions to development standards .....	91
77 Development within the coastal zone .....	92
78 Heritage conservation .....	94
79 (Repealed).....	98
80 Public utility infrastructure .....	98
81 Development control plan .....	98
82 Infrastructure development and use of existing buildings of the Crown.....	99
83 Relevant acquisition authority .....	100
84 Suspension of covenants, agreements and instruments .....	100
85 Subdivision and permitted dwelling houses on certain land in Zone E2.....	101
<b>Part 9 Nords Wharf site .....</b>	<b>102</b>
<b>Division 1 Preliminary .....</b>	<b>102</b>
86 Application of Part .....	102
87 Interpretation .....	102
88 Maps.....	102
89 Relationship with this Plan and other environmental planning instruments.....	103
<b>Division 2 Provisions applying to development in Nords Wharf site.....</b>	<b>103</b>
90 Land use zones.....	103

91 Objectives of land use zones to be taken into account.....	103
92 Zone R2 Low Density Residential .....	103
93 Zone E1 National Parks and Nature Reserves.....	104
94 Zone E2 Environmental Conservation .....	105
95 Subdivision—consent requirements .....	105
96 Height of buildings .....	105
97 Neighbourhood shops in Zone R2 Low Density Residential .....	105
98 Exceptions to development standards .....	106
99 Development within the coastal zone .....	107
100 (Repealed) .....	109
101 Public utility infrastructure .....	109
102 Development control plan .....	109
103 Infrastructure development and the use of existing buildings of the Crown .....	110
104 Relevant acquisition authority .....	111
105 Suspension of covenants, agreements and instruments .....	111
<b>Part 10 Minmi-Newcastle Link Road site.....</b>	<b>112</b>
<b>Division 1 Preliminary .....</b>	<b>112</b>
106 Application of Part .....	112
107 Interpretation .....	112
108 Maps.....	113
109 Relationship with other environmental planning instruments .....	113
110 Savings provision relating to development applications.....	113
<b>Division 2 Provisions applying to development in Minmi-Newcastle Link Road site</b>	
.....	114
111 Land use zones.....	114
112 Objectives of land use zones to be taken into account.....	114
113 Zone R2 Low Density Residential .....	114
114 Zone B2 Local Centre .....	115
115 Zone E1 National Parks and Nature Reserves.....	115
116 Zone E2 Environmental Conservation .....	116
117 Subdivision—consent requirements .....	117

118 Demolition requires development consent .....	117
119 Height of buildings .....	117
120 Bush fire hazard reduction.....	117
121 Exceptions to development standards .....	117
122 Relevant acquisition authority .....	119
123 Controls relating to miscellaneous permissible uses .....	119
124 Preservation of trees or vegetation .....	120
125 Trees or vegetation not prescribed by development control plan.....	122
126 (Repealed) .....	122
127 Public utility infrastructure .....	122
128 Development control plan .....	122
129 Infrastructure development and the use of existing buildings of the Crown .....	124
130 Suspension of covenants, agreements and instruments .....	124
131 Flood planning .....	125
<b>Part 11 South Wallarah Peninsula site .....</b>	<b>125</b>
<b>Division 1 Preliminary .....</b>	<b>125</b>
132 Application of Part .....	125
133 Interpretation .....	126
134 Maps.....	126
135 Application of SEPPs .....	127
<b>Division 2 Provisions relating to development in South Wallarah Peninsula site</b>	
.....	127
136 Land use zones.....	127
137 Objectives of land use zones to be taken into account.....	127
138 Zone R2 Low Density Residential .....	127
139 Zone SP2 Infrastructure.....	128
140 Zone E1 National Parks and Nature Reserves.....	129
141 Zone E2 Environmental Conservation .....	129
142 Additional permitted uses.....	130
143 Subdivision—consent requirements .....	130
144 Height of buildings .....	131

145 Exceptions to development standards .....	131
146 Controls relating to miscellaneous uses .....	132
147 Development within the coastal zone .....	133
148 Architectural roof features.....	135
149 Preservation of trees or vegetation .....	136
150 Heritage conservation .....	137
151 Public utility infrastructure .....	139
152 Infrastructure development and use of existing buildings of the Crown.....	140
153 Relevant acquisition authority .....	140
154 Suspension of covenants, agreements and instruments .....	141
155 Mining, petroleum production and extractive industries .....	141
156 Development control plan .....	142
157 Dwelling house or secondary dwelling affected by natural disaster .....	143
<b>Schedule 1 Exempt development .....</b>	<b>143</b>
<b>Schedule 2 Subdivision standards .....</b>	<b>155</b>
<b>Schedule 3 Classification and reclassification of public land as operational land</b> .....	<b>163</b>
<b>Schedule 4 Heritage items other than of indigenous origins and including potential archaeological sites</b> .....	<b>171</b>
<b>Schedule 5 Natural heritage items .....</b>	<b>187</b>
<b>Schedule 6 Places or potential places of Aboriginal heritage significance</b> .....	<b>188</b>
<b>Schedule 7 Additional development allowed on certain land .....</b>	<b>188</b>
<b>Schedule 8 Land subject to special development requirements.....</b>	<b>194</b>
<b>Schedule 9 Consent to development subject to special requirements ...</b>	<b>205</b>
<b>Schedule 10 Development by public authorities .....</b>	<b>206</b>



<b>Schedule 11 Restricted development</b> .....	209
<b>Dictionary</b> .....	210

# Lake Macquarie Local Environmental Plan 2004



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan is *Lake Macquarie Local Environmental Plan 2004*.

### 2 Land to which plan applies

- (1) This plan applies to all land within the local government area of Lake Macquarie City, except as provided by subclause (2).
- (2) This plan does not apply to land to which *Lake Macquarie Local Environmental Plan 2000—North Wallarah Peninsula* applies or to any land shown as “Deferred” on the map.
- (3) (Repealed)

### 3 Objective of plan

The objective of this plan is to achieve development of land to which this plan applies that is in accordance with the principles of ecologically sustainable development by—

- (a) promoting balanced development of that land, and
- (b) implementing the *Lifestyle 2020 Strategy* adopted by the Council on 27 March 2000.

### 4 Consent authority

The Council is the consent authority for the purposes of this plan, subject to the Act.

### 5 Relationship to other environmental planning instruments

- (1) All local environmental plans (including *Lake Macquarie Local Environmental Plan 1984*) that applied to land to which this plan applies immediately before the appointed day are repealed.
- (2) This plan amends *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* by inserting the following words in alphabetical order in Schedule 2 (Land excepted from clauses

6-10)—

Lake Macquarie City local government area

- (3) The *Hunter Regional Environmental Plan 1989 (Heritage)* does not apply to land to which this plan applies.

## **6 Notes**

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

## **7 Definitions**

- (1) Words defined in the Dictionary at the end of this plan have the meanings set out in the Dictionary.
- (1A) Words and expressions used in this plan in relation to development on land in Zone B4 Mixed Use Zone have the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*).
- (2) In this plan, a reference to—
- (a) a map, is a reference to a map held at the office of the Council, and
  - (b) land within a zone, is a reference to land shown on the map as being within that zone.

## **8 Exempt development**

Development meeting the criteria for exempt development in Schedule 1, being development of minimal environmental impact, is exempt development for the purposes of the Act.

## **9 Complying development**

Local development that complies with the standards and any other requirements specified for the development in *Lake Macquarie Development Control Plan No 2—Complying Development*, as approved by the Council on 22 March 2004, is complying development for the purposes of the Act.

### **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. That Policy has State-wide application.

## **10 Development by public authorities**

Despite other provisions of this plan, the following are allowed on land to which this plan applies without consent—

- (a) the use of existing buildings of the Crown by the Crown, and
- (b) activities specified in Schedule 10.

## **11 Determination of pending development applications**

- (1) Any development application lodged but not finally determined prior to the commencement of this plan is to be determined as if this plan had been exhibited under the Act but had not been made.
- (2) Development control plans as in force immediately before the commencement of this plan are to be taken into consideration by the consent authority in determining any such development application.
- (3) A development application lodged with the Council, but not finally determined, before the commencement of *Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)* is to be determined as if that plan had been exhibited under the Act but had not been made.
- (4) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.
- (5) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

## **Part 2 Lifestyle 2020 Strategy—vision, values and aims**

### **12 Vision**

The vision for land to which this plan applies is described in the *Lifestyle 2020 Strategy*, which is available from the office of the Council.

### **13 Values**

The 4 core values of that strategy are sustainability, equity, efficiency and liveability.

### **14 Aims**

The aims of the *Lifestyle 2020 Strategy* are to—

- (a) provide the community with realistic expectations about the future development

patterns for land in Lake Macquarie City, while retaining flexibility for land use decision making in the longer term, and

- (b) reinforce and strengthen centres so that a wide range of commercial and community services may be provided in a timely and accessible manner, and
- (c) provide local employment opportunities for residents and promote economic development consistent with the City's natural, locational and community resources, and
- (d) guide the development of urban communities that are compact, distinct and diverse and include a range of housing types and activities, and
- (e) achieve a strong sense of positive community identity, through the development of local communities that are safe and liveable and offer a diversity of uses, economic opportunities and ready access to services, and
- (f) develop an attractive urban setting for the City which reflects its physical and natural environment, and visual character, and
- (g) manage the City's natural environment so that its ecological functions and biological diversity are conserved and enhanced, and contribute to the City's overall well being, and
- (h) manage the City's heritage and economic resources in a way that protects the value of these resources and enhances the City's character, and
- (i) integrate land use with the efficient provision of public and private movement systems, and
- (j) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.

### **Part 3 General controls for land within zones**

#### **15 General controls for land within zones**

Except as provided otherwise by this plan, the following Table shows for land within each zone—

- (a) the development that may be carried out in the zone without development consent under the heading "Without development consent", and
- (b) the development that may be carried out in the zone only with development consent under the heading "Only with development consent", and
- (c) the development that is prohibited in the zone under the heading "Prohibited".

Land use table

## **Zone 1 (1) Rural (Production) Zone**

### **1 Objectives of zone**

The objectives of this zone are to—

- (a) provide for economic and employment-generating agricultural activities, and
- (b) provide for a range of compatible land uses that maintain and enhance the rural environment of the locality, and
- (c) ensure development is carried out in a manner that improves the quality of the environment, including quality of design, and is within the servicing capacity of the locality, and
- (d) encourage development and management practices that are sustainable, and
- (e) encourage the development of good quality agricultural land for agriculture (other than intensive agriculture) to the greatest extent possible, and
- (f) encourage the development of low quality agricultural land for intensive agriculture, and
- (g) provide for sustainable forestry practices, and
- (h) avoid land use conflict by restricting or prohibiting development that has the potential to negatively affect the sustainability of existing agriculture, and
- (i) provide for sustainable water cycle management.

### **2 Without development consent**

Exempt development as provided in Schedule 1.

Development for the purpose of agriculture (other than intensive agriculture).

### **3 Only with development consent**

Development for the purpose of—

airline terminals

airports  
animal establishments  
aquaculture  
bed and breakfast accommodation  
bulk stores  
cemeteries and crematoriums  
drainage  
dual occupancies—attached  
dwelling houses  
earthworks  
eco-tourism facilities  
educational establishments  
emergency services facilities  
energy generation works  
environmental facilities  
extractive industries  
farm stay accommodation  
forestry  
helipads  
heliports  
home businesses  
home industries  
intensive agriculture  
mines  
retail plant nurseries

roads  
roadside stalls  
rural industries  
sawmills  
signs  
stormwater management facilities  
sustainable generating works  
telecommunications facilities  
transport terminals  
utility installations  
veterinary hospitals  
wholesale plant nurseries

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 1 (2) Rural (Living) Zone**

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

The objectives of this zone are to—

- (a) provide for the enjoyment of a rural lifestyle and the operation of small-scale rural and tourism activities, and
- (b) provide for a range of compatible land uses that maintain the rural environment, and
- (c) ensure development is carried out in a manner that improves the quality of the environment, and is within the servicing capacity of the area, and
- (d) retain and enhance the rural character of land, and
- (e) allow for the appropriate development of land presently within this zone so as to limit the need to rezone any more land to this zone, and



(f) avoid land use conflict by restricting or prohibiting development that has the potential to negatively affect the sustainability of existing agriculture, and

(g) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

agriculture (other than intensive agriculture)

bed and breakfast accommodation

drainage

dual occupancies—attached

dwelling houses

earthworks

eco-tourism facilities

educational establishments

emergency services facilities

environmental facilities

home businesses

home industries

retail plant nurseries

roads

roadside stalls

signs

stormwater management facilities

telecommunications facilities

utility installations

wholesale plant nurseries

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 2 (1) Residential Zone**

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

The objectives of this zone are to—

- (a) permit development of neighbourhoods of low-density housing, and
- (b) provide for general stores, community service activities or development that includes home businesses whilst maintaining and enhancing the residential amenity of the surrounding area, and
- (c) ensure that housing development respects the character of surrounding development and is of good quality design, and
- (d) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—

bed and breakfast accommodation

boarding houses

child care centres

community facilities

drainage

dual occupancies—attached

dual occupancies—detached

dwelling houses  
dwelling houses—exhibition  
earthworks  
educational establishments  
emergency services facilities  
environmental facilities  
general stores  
group homes  
home businesses  
home industries  
places of public worship  
professional consulting rooms  
roads  
seniors housing  
signs  
small lot housing  
sporting facilities  
stormwater management facilities  
telecommunications facilities  
utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 2 (2) Residential (Urban Living) Zone**

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

The objectives of this zone are to—

- (a) provide for medium and high density housing, and
- (b) encourage development of good quality design within the zone, and
- (c) provide an environment where people can live and work in home businesses and professional services whilst maintaining the residential amenity of the surrounding area, and
- (d) provide residents with good access to a range of urban services and facilities, and
- (e) encourage amalgamation of existing lots to facilitate well designed medium and high density development, and
- (f) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- bed and breakfast accommodation
- boarding houses
- child care centres
- clubs
- community facilities
- drainage
- dwelling houses
- earthworks
- educational establishments
- environmental facilities
- general stores
- group homes

home businesses  
home industries  
hotel or motel accommodation  
multiple dwelling housing  
places of public worship  
professional consulting rooms  
residential flat buildings  
roads  
seniors housing  
signs  
small lot housing  
sporting facilities  
stormwater management facilities  
telecommunications facilities  
utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 3 (1) Urban Centre (Core) Zone**

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

The objectives of this zone are to—

- (a) provide land for commercial, retail, recreational and housing uses in a central location, and
- (b) generate viable employment and economic activity, and
- (c) create urban centres for safe and vibrant social, cultural and community activity, and
- (d) create public spaces that are accessible, welcome all people and are a

central focus for the community, and

(e) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

backpackers' accommodation

bottle shops

brothels

bus stations

car parking facilities

car repair stations

child care centres

clubs

commercial premises

community facilities

drainage

earthworks

educational establishments

emergency services facilities

entertainment facilities

environmental facilities

helipads

home businesses

hotel or motel accommodation

large-scale commercial premises  
medical centres  
mixed use development  
motor showrooms  
places of public worship  
pubs  
recreation facilities  
restaurants or cafes  
restricted premises  
roads  
seniors housing  
service stations  
serviced apartments  
shops  
signs  
sporting facilities  
stormwater management facilities  
telecommunications facilities  
utility installations  
veterinary hospitals

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 3 (2) Urban Centre (Support) Zone**

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

The objectives of this zone are to—

- (a) provide land for development that supports the viability of Urban Centre (Core) zoned land, and
- (b) encourage good quality design within the zone, and
- (c) provide land for mixed use development comprising residential uses in combination with commercial and retail uses, professional services and home based businesses, and
- (d) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- backpackers' accommodation
- bulky goods premises
- bus stations
- car parking facilities
- car repair stations
- child care centres
- clubs
- commercial premises
- community facilities
- drainage
- earthworks
- educational establishments
- emergency services facilities
- environmental facilities
- general stores



home businesses  
home industries  
hospitals  
hotel or motel accommodation  
large-scale commercial premises  
marinas  
medical centres  
mixed use development  
motor showrooms  
places of public worship  
pubs  
recreation facilities  
restaurants or cafes  
roads  
seniors housing  
service stations  
serviced apartments  
signs  
sporting facilities  
stormwater management facilities  
telecommunications facilities  
utility installations  
veterinary hospitals

#### **4 Prohibited**

Development not listed in item 2 or 3.

## **Zone B4 Mixed Use Zone**

### **1 Objectives of zone**

The objectives of this zone are—

- (a) to provide for a mixture of compatible land uses, and
- (b) 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, and
- (c) to enable development that complements and enhances the core retail function and trading performance of the local area within the regional retail hierarchy.

### **2 Without development consent**

Exempt development as provided in Schedule 1.

### **3 Only with development consent**

Development for the purpose of—

- advertising structures
- amusement centres
- backpackers' accommodation
- boarding houses
- building identification signs
- business identification signs
- business premises
- car parks
- child care centres
- community facilities
- drainage
- earthworks

emergency services facilities  
entertainment facilities  
environmental facilities  
environmental protection works  
exhibition homes  
food and drink premises  
function centres  
funeral chapels  
funeral homes  
group homes  
group homes (permanent)  
home-based child care  
home businesses  
home industries  
hospitals  
hostels  
hotel or motel accommodation  
information and education facilities  
kiosks  
medical centres  
mixed use development  
mortuaries  
multi dwelling housing  
neighbourhood shops  
office premises

passenger transport facilities  
places of public worship  
public administration buildings  
public utility undertakings  
pubs  
recreation areas  
recreation facilities (indoor)  
registered clubs  
residential care facilities  
residential flat buildings  
restaurants or cafes  
retail premises  
seniors housing  
serviced apartments  
shop top housing  
shops  
signage  
take away food and drink premises  
tourist and visitor accommodation  
vehicle sales or hire premises  
veterinary hospitals  
waterbodies (artificial)  
waterbodies (natural)  
watercourses  
wetland

## **4 Prohibited**

Development not listed in item 2 or 3.

### **Note—**

Words and expressions used in relation to development on land in this zone have the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

## **Zone 4 (1) Industrial (Core) Zone**

### **1 Objectives of zone**

The objectives of this zone are to—

- (a) provide land for a wide range of employment-generating industries, including manufacturing, processing, assembly, storage and distribution uses, and
- (b) provide land for a range of industrial uses that, because of their nature, require large areas of land or separation from more intensive forms of employment generating industries, and
- (c) ensure that industries are designed and located so as not to cause unacceptable environmental harm or adversely affect the amenity of the environment, including residential neighbourhoods, and
- (d) provide for sustainable water cycle management.

### **2 Without development consent**

Exempt development as provided in Schedule 1.

### **3 Only with development consent**

Development for the purpose of—

- aquaculture
- brothels
- bulk stores
- bus stations
- car parking facilities
- car repair stations

child care centres  
depots  
drainage  
earthworks  
emergency services facilities  
energy generation works  
environmental facilities  
extractive industries  
general stores  
hazardous industries  
hazardous storage establishments  
helipads  
high technology industries  
industries  
junk yards  
light industries  
liquid fuel depots  
mines  
offensive industries  
offensive storage establishments  
rail lines  
roads  
service stations  
signs  
storage facilities

stormwater management facilities

sustainable generating works

telecommunications facilities

transport terminals

utility installations

warehouses

waste management and/or recycling facilities

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 4 (2) Industrial (General) Zone**

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

The objectives of this zone are to—

- (a) provide land for light industries that can service surrounding community needs and provide local employment opportunities, and
- (b) enable ancillary retail/commercial uses, in conjunction with an approved development, providing it will not undermine the retail function and general amenity of existing and future urban centres, and
- (c) ensure that development is well designed, has minimal adverse impact on the environment and integrates with the urban environment, and
- (d) provide opportunities for high technology industries, scientific research and development, or similar activities, and
- (e) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—  
animal establishments

aquaculture  
brothels  
building products warehouses and showrooms  
bulk stores  
bus stations  
car parking facilities  
car repair stations  
child care centres  
depots  
drainage  
earthworks  
emergency services facilities  
entertainment facilities  
environmental facilities  
general stores  
high technology industries  
industries  
junk yards  
light industries  
motor showrooms  
places of public worship  
recreation facilities  
retail plant nurseries  
roads  
service stations



signs

sporting facilities

storage facilities

stormwater management facilities

telecommunications facilities

transport terminals

utility installations

veterinary hospitals

warehouses

wholesale plant nurseries

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 4 (3) Industrial (Urban Services) Zone**

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

The objectives of this zone are to—

- (a) provide land for light industries that can service surrounding community needs and provide local employment opportunities, and
- (b) provide land for the wholesale or retail sale of bulky goods, and
- (b1) provide land for research and development, and for applied technology, that can service surrounding community needs and provide employment opportunities, and
- (c) support the role of existing and future urban centres while not undermining the retail and commercial functions and general amenity of these centres, and
- (d) ensure that development is well designed, has minimal adverse impact on the environment and integrates with the urban environment, and
- (e) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- animal establishments
- brothels
- building products warehouses and showrooms
- bulky goods premises
- bus stations
- car parking facilities
- car repair stations
- child care centres
- drainage
- earthworks
- emergency services facilities
- environmental facilities
- general stores
- high technology industries
- large-scale commercial premises
- light industries
- medical centres
- motor showrooms
- places of public worship
- recreation facilities
- restaurants or cafes

retail plant nurseries

roads

service stations

signs

sporting facilities

storage facilities

stormwater management facilities

telecommunications facilities

transport terminals

utility installations

veterinary hospitals

warehouses

wholesale plant nurseries

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 5 Infrastructure Zone**

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

The objectives of this zone are to—

- (a) provide land for future infrastructure needs such as roads, drainage and other utilities, and
- (b) provide land required for the expansion of existing community facilities or the development of new community facilities, and
- (c) provide for limited development within the zone where it can be demonstrated that the development will not prejudice or have the potential to prejudice the intended future infrastructure development of that land, and
- (d) ensure that development on adjacent or adjoining land zoned

infrastructure does not prejudice future infrastructure development within that zone, and

(e) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

agriculture (other than intensive agriculture)

airline terminals

airports

bus stations

car parking facilities

cemeteries and crematoriums

child care centres

community facilities

drainage

earthworks

educational establishments

emergency services facilities

energy generation works

entertainment facilities

environmental facilities

helipads

heliports

hospitals

hotel or motel accommodation  
medical centres  
places of public worship  
rail lines  
restaurants or cafes  
roads  
signs  
stormwater management facilities  
telecommunications facilities  
transport terminals  
utility installations  
veterinary hospitals

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 6 (1) Open Space Zone**

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

The objectives of this zone are to—

- (a) provide community owned land or land intended to be owned by the community (shown with crosshatching on the map) that is suitable for the passive and active recreation needs of the community, and
- (b) provide for a variety of facilities necessary to support use of this land including barbecue facilities, toilet facilities, sports administration and changing rooms, clubhouses, cycle ways, seating, lighting and the like, and
- (c) facilitate preservation of the environmental qualities of land identified in this plan for public ownership, and
- (d) provide for the use of public land leased from the Council where

community benefit can be established and the use of the land is appropriate for its location, and

(e) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

animal establishments

car parking facilities

caravan parks

cemeteries and crematoriums

child care centres

clubs

community facilities

drainage

earthworks

educational establishments

emergency services facilities

entertainment facilities

environmental facilities

helipads

marinas

places of public worship

recreation facilities

restaurants or cafes

roads

signs

sporting facilities

stormwater management facilities

telecommunications facilities

utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 6 (2) Tourism and Recreation Zone**

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

The objectives of this zone are to—

- (a) provide land primarily for commercial recreation and tourist uses, and
- (b) encourage good quality design within the zone, and
- (c) provide land for good quality tourist development, and
- (d) provide land for function and entertainment centres, and
- (e) encourage tourism development that is sensitively designed to complement its location and minimise any adverse impacts on the environment, and
- (f) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—

animal establishments

backpackers' accommodation

car parking facilities

caravan parks  
clubs  
community facilities  
drainage  
earthworks  
eco-tourism facilities  
educational establishments  
emergency services facilities  
entertainment facilities  
environmental facilities  
function centres  
helipads  
hotel or motel accommodation  
manufactured home estates  
marinas  
places of public worship  
pubs  
recreation facilities  
restaurants or cafes  
roads  
serviced apartments  
signs  
sporting facilities  
stormwater management facilities  
telecommunications facilities



tourist resorts

utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 7 (1) Conservation (Primary) Zone**

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

The objectives of this zone are to—

- (a) provide and conserve land having ecological, scientific, geological, educational, faunal, floristic or aesthetic values, and
- (b) preserve and enhance areas of significant vegetation and habitat to promote the regeneration of ecosystems and eradication of invasive species that compete with native flora and fauna, and
- (c) conserve, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material, and
- (d) exclude activities which would prejudice the ongoing conservation or rehabilitation of land, and
- (e) encourage activities that meet conservation objectives, and
- (f) protect land within this zone from impacts from development on adjoining zones, and
- (g) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—

bed and breakfast accommodation

drainage

dwelling houses

earthworks  
environmental facilities  
home businesses  
home industries  
roads  
signs  
stormwater management facilities  
utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 7 (2) Conservation (Secondary) Zone**

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

The objectives of this zone are to—

- (a) protect, conserve and enhance land that is environmentally important, and
- (b) protect, manage and enhance corridors to facilitate species movement, dispersal and interchange of genetic material, and
- (c) enable development where it can be demonstrated that the development will not compromise the ecological, hydrological, scenic or scientific attributes of the land or adjacent land in Zone 7 (1), and
- (d) ensure that development proposals result in rehabilitation and conservation of environmentally important land, and
- (e) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—

bed and breakfast accommodation  
community facilities  
drainage  
dual occupancies—attached  
dwelling houses  
earthworks  
eco-tourism facilities  
emergency services facilities  
environmental facilities  
home businesses  
home industries  
roads  
roadside stalls  
signs  
stormwater management facilities  
telecommunications facilities  
utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 7 (3) Environmental (General) Zone**

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

The objectives of this zone are to—

- (a) maintain and enhance biodiversity, scenic quality and native riparian vegetation and habitat, and
- (b) protect, manage and enhance corridors to facilitate species movement, dispersal and interchange of genetic material, and

- (c) ensure that development and land management practices do not have an adverse effect on water quality, land surface conditions and important ecosystems such as waterbodies, waterways, wetlands and rainforests, and
- (d) protect and enhance natural, rural and heritage landscapes, and
- (e) provide for sustainable water cycle management, and
- (f) encourage rehabilitation and conservation of environmentally important land.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

agriculture (other than intensive agriculture)

bed and breakfast accommodation

community facilities

drainage

dual occupancies—attached

dwelling houses

earthworks

eco-tourism facilities

educational establishments

emergency services facilities

environmental facilities

forestry

home businesses

home industries

places of public worship  
retail plant nurseries  
roads  
roadside stalls  
signs  
stormwater management facilities  
telecommunications facilities  
utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 7 (4) Environmental (Coastline) Zone**

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

The objectives of this zone are to—

- (a) provide and conserve an area for natural coastal processes, and
- (b) permit appropriate development where consistent with the Coastal Impact Zone (as identified in the *Lake Macquarie Coastline Management Plan 1999*), and
- (c) conserve and enhance the scenic values and natural, Aboriginal and European heritage associated with the coastline, and
- (d) minimise disturbance of the coastline environment, and
- (e) encourage ongoing dune stabilisation and rehabilitation of native vegetation, and
- (f) ensure that development facilitates public access to the coastline and supports the optimum and efficient development of the coastal walk (as identified in the *Lake Macquarie Coastline Management Plan 1999*), and
- (g) ensure that development is sympathetic in design, bulk and scale with the coastline environment, and

- (h) provide for sustainable water cycle management, and
- (i) protect, enhance and manage corridors to facilitate species movement, and the dispersal and interchange of genetic material.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- car parking facilities
- clubs
- community facilities
- drainage
- earthworks
- emergency services facilities
- environmental facilities
- helipads
- restaurants or cafes
- roads
- signs
- sporting facilities
- stormwater management facilities
- utility installations

## **4 Prohibited**

Development not listed in item 2 or 3.

## **Zone 7 (5) Environmental (Living) Zone**

## **1 Objectives of zone**

The objectives of this zone are to—

- (a) provide land with ecological, geological, scientific, scenic and biodiversity values that may accommodate minimal impact, low density residential and agricultural development, and
- (b) manage development to minimise adverse impacts on those values, such as by encouraging appropriate use of disturbed land, and
- (c) protect, enhance and manage corridors to facilitate species movement, dispersal and interchange of genetic material, and
- (d) encourage rehabilitation and conservation of environmentally important land, and
- (e) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- agriculture (other than intensive agriculture)
- bed and breakfast accommodation
- drainage
- dual occupancies—attached
- dwelling houses
- earthworks
- eco-tourism facilities
- educational establishments
- emergency services facilities
- environmental facilities
- home businesses

home industries

roads

roadside stalls

signs

stormwater management facilities

telecommunications facilities

utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 8 National Park Zone**

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

The objectives of this zone are to—

- (a) identify land that is reserved or dedicated under the *National Parks and Wildlife Act 1974*, and
- (b) allow for the management and appropriate use of that land as provided for in the *National Parks and Wildlife Act 1974*, and
- (c) promote the survival of flora and fauna by conserving viable reserves in large holdings with appropriate connections to other reserves.

#### **2 Without development consent**

Development for the purpose of land uses authorised by or under the *National Parks and Wildlife Act 1974*, and any development incidental or ancillary to such land uses.

#### **3 Only with development consent**

Nil.

#### **4 Prohibited**

Development not listed in item 2.

### **Zone 9 Natural Resources Zone**



## **1 Objectives of zone**

The objectives of this zone are to—

- (a) provide land that has dual values as an economic natural resource and for environmental protection, and
- (b) recognise the dual values of the land and integrate economic use of the land with ecological sustainability, and
- (c) acknowledge the economic value of its natural resources, particularly for extraction of coal, gravel and timber, and
- (d) acknowledge the long term value of the land for the management and maintenance of biodiversity, threatened species habitat, and corridors by minimising the adverse impacts of resource development, and
- (e) rehabilitate disturbed land to a natural state, reflective of its long term value, and
- (f) minimise earthworks while enabling productive use of the land, and
- (g) permit habitat disturbance to facilitate forestry, surface activities for underground mining and other extraction of mineral and gravel resources and energy generation works, and
- (h) acknowledge the multiple use of State forests for tourism, conservation and sustainable harvesting of timber, and
- (i) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

## **3 Only with development consent**

Development for the purpose of—

- agriculture (other than intensive agriculture)
- car parking facilities
- drainage
- earthworks

emergency services facilities  
energy generating works  
environmental facilities  
extractive industries  
forestry  
hazardous industries  
hazardous storage establishments  
helipads  
industries  
liquid fuel depots  
mines  
offensive industries  
offensive storage establishments  
rail lines  
roads  
rural industries  
sawmills  
signs  
stormwater management facilities  
sustainable generating works  
telecommunications facilities  
transport terminals  
utility installations  
waste management and/or recycling facilities

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 10 Investigation Zone**

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

The objectives of this zone are to—

- (a) provide land for future development and/or conservation, and
- (b) ensure that land in this zone is thoroughly assessed to identify and substantiate future uses, and
- (c) provide for limited development of the land and allow that development only where it can be proven not to prejudice or have the potential to prejudice future protection or use of the land, and
- (d) ensure that land is released in a strategic and efficient manner consistent with the *Lifestyle 2020 Strategy*, and
- (e) require comprehensive local environmental studies to substantiate the capability and suitability of land in this zone proposed for rezoning, and
- (f) provide for sustainable water cycle management.

#### **2 Without development consent**

Exempt development as provided in Schedule 1.

#### **3 Only with development consent**

Development for the purpose of—

- agriculture (other than intensive agriculture)
- bed and breakfast accommodation
- drainage
- dwelling houses
- earthworks
- emergency services facilities
- environmental facilities

home businesses

home industries

roads

roadside stalls

signs

stormwater management facilities

telecommunications facilities

utility installations

#### **4 Prohibited**

Development not listed in item 2 or 3.

### **Zone 11 Lakes and Waterways Zone**

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

The objectives of this zone are to—

- (a) recognise the importance of Lake Macquarie and its waterways as an environmental asset, not only to Lake Macquarie City, but to the Hunter and Central Coast Regions, and
- (b) ensure that development of the Lake and its waterways occurs in a manner that is consistent with the principles of ecologically sustainable development, and
- (c) ensure development does not adversely affect the ecology, scenic values or navigability of the Lake or its waterways, and
- (d) ensure that aquatic and terrestrial habitats and their interface are protected and enhanced and are not adversely affected by the recreational use of the Lake or its waterways, and
- (e) provide for sustainable and viable economic use of the Lake and its waterways, and
- (f) provide for sustainable water cycle management.

## **2 Without development consent**

Exempt development as provided in Schedule 1.

Development for the purpose of—

aids to navigation required by the Maritime Authority of NSW

moorings, except commercial moorings, if in accordance with a Mooring Management Plan approved by the Maritime Authority of NSW.

## **3 Only with development consent**

Any development not listed in item 2.

## **4 Prohibited**

Nil.

## **Part 3A Controls relating to miscellaneous permissible uses**

### **15A Controls relating to 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.

### **15B Controls relating to 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.

## **Part 4 Special provisions applying to all land**

### **16 Development consent—matters for consideration**

Consent must not be granted for development unless the consent authority—

- (a) has had regard to the vision, values and aims of the *Lifestyle 2020 Strategy* expressed in Part 2, and
- (b) is satisfied that such of the development as is proposed to be carried out within a zone is consistent with the relevant objectives for the zone, as set out in the Table to clause 15.

### **17 Provision of essential infrastructure**

Consent must not be granted for development on any land to which this plan applies unless the consent authority—

- (a) is satisfied that adequate arrangements have been made for the provision of any infrastructure that is essential for the proposed development, including the following—
  - (i) a supply of water,
  - (ii) provision of energy,
  - (iii) provision of telecommunications,
  - (iv) a system for the disposal and management of sewage, and
- (b) has considered the impacts of the provision of that infrastructure on the land to which the development application relates.

### **18 Temporary development of land**

- (1) Despite any other provision of this plan, a person may carry out development on any land with development consent for any purpose for a maximum period of 28 days in any one year.
- (2) Consent may be granted under this clause only if, in the opinion of consent authority, the development contributes to the social, environmental, cultural and economic well-being of the community.
- (3) To avoid doubt, [State Environmental Planning Policy No 1—Development Standards](#) does not apply to a requirement made by subclause (1).

### **19 (Repealed)**

### **20 Suspension of covenants, agreements or instruments**

- (1) Any covenant, agreement or similar instrument which affects development allowed by this plan does not apply to the extent necessary to allow the development.
- (2) Nothing in subclause (1) affects the rights or interests of any statutory corporation, public authority or Minister of the Crown under any registered instrument.
- (3) Pursuant to section 28 of the Act, the Governor approved of subclauses (1) and (2) before this plan was made.

### **21 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone 1 (1) Rural (Production) Zone and Zone 1 (2) Rural (Living) Zone if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)
- (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.
- (9) The consent authority, in deciding whether to grant development consent, is to

consider the following, to the extent that they are relevant to the proposed development—

- (a) neighbourhood and local context,
- (b) topography,
- (c) solar orientation,
- (d) neighbourhood amenity and character,
- (e) privacy,
- (f) overshadowing,
- (g) security, safety and access,
- (h) local infrastructure,
- (i) landscape design,
- (j) waste disposal.

#### **21A 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.

### **21B Standards that cannot be used to refuse consent—playing and performing music**

(1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—

(a) the playing or performance of music, including the following—

(i) the genre of music played or performed, or

(ii) whether the music played or performed is live or amplified, or

(iii) whether the music played or performed is original music, or

(iv) the number of musicians or live entertainment acts playing or performing, or

(v) the type of instruments played,

(b) whether dancing occurs,

(c) the presence or use of a dance floor or another area ordinarily used for dancing,

(d) the direction in which a stage for players or performers faces,

(e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.

(2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.

(3) In this clause—

**licensed premises** has the same meaning as in the [Liquor Act 2007](#).

### **21C Public bushland**

(1) The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas, by—

(a) preserving biodiversity, habitat corridors and links between public bushland and

other nearby bushland, and

- (b) preserving bushland as a natural stabiliser of the soil surface, and
  - (c) preserving existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores, and
  - (d) preserving the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of bushland, and
  - (e) mitigating disturbance caused by development.
- (2) Development that will disturb, or is reasonably likely to disturb, public bushland is permitted with development consent.
- (3) Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following—
- (a) the disturbance of the bushland is essential for a purpose in the public interest,
  - (b) there is no reasonable alternative to the disturbance,
  - (c) the development minimises the amount of bushland to be disturbed,
  - (d) the development includes measures to remediate the disturbed bushland.
- (4) Despite subclause (2), development that will disturb, or is reasonably likely to disturb, public bushland is permitted without development consent if the development is for the following purposes—
- (a) the construction, operation or maintenance of pipelines to carry water, sewerage or gas or pipelines licensed under the *Pipelines Act 1967*,
  - (b) the construction, operation or maintenance of electricity or telecommunication lines,
  - (c) bush fire hazard reduction,
  - (d) the construction or maintenance of classified roads,
  - (e) facilitating the recreational use of the public bushland.
- (5) Development specified in subclause (4)(e) is permitted without development consent only if it is carried out in accordance with a plan of management for the public bushland, adopted by the Council in the same way a plan of management is required to be adopted for community land under the *Local Government Act 1993*, Chapter 6, Part 2, Division 2, that includes measures for the following—
- (a) the recreational use of the land,

- (b) bush fire hazard reduction,
  - (c) the prevention of degradation, including the alteration of drainage patterns, rubbish dumping, vehicle intrusion and infestation with weeds or non-native plants,
  - (d) the remediation of degraded public bushland.
- (6) This clause does not require development consent for clearing of native vegetation if the clearing is of a kind that is authorised under the *Local Land Services Act 2013*, section 600.
- (7) In deciding whether to grant development consent to development on land adjoining public bushland, the consent authority must consider the following—
- (a) the need to retain public bushland adjoining the site of the development,
  - (b) the likely effect of the development on public bushland, including the following—
    - (i) the erosion of soil,
    - (ii) the siltation of streams and waterways,
    - (iii) the spread of weeds and non-native plants within public bushland,
  - (c) other matters the consent authority considers relevant to the protection and preservation of public bushland.
- (8) This clause does not apply to the following land that is public bushland—
- (a) land in Zone RU1, RU2, RU3, RU4 or RU5,
  - (b) land reserved, dedicated or acquired under the *National Parks and Wildlife Act 1974*,
  - (c) land within a State forest, flora reserve or timber reserve within the meaning of the *Forestry Act 2012*,
  - (d) land to which *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 7 applies.
- (9) In this clause—
- disturb** public bushland means—
- (a) remove vegetation from public bushland, or
  - (b) cause a change in the natural ecology of public bushland that results in the destruction or degradation of the public bushland.

**non-native plant** means a plant that is not native vegetation.

**public bushland** means land—

- (a) on which there is vegetation that is—
  - (i) a remainder of the natural vegetation of the land, or
  - (ii) representative of the structure and floristics of the natural vegetation of the land, and
- (b) that is owned, managed or reserved for open space or environmental conservation by the Council or a public authority.

#### **21D Canal estate development prohibited**

- (1) Canal estate development is prohibited on land to which this Plan applies.
- (2) In this clause—

**canal estate development** has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

### **Part 5 Special controls for protection of the environment or for particular land**

#### **22 Foreshore building lines**

- (1) The objectives of this clause are—
  - (a) preservation and enhancement of the natural features and vegetation near where land meets the high water mark, and
  - (b) restoration of the land below any foreshore building line, so far as practicable, to a natural state, with a minimum intrusion of man-made structures, and
  - (c) removal of structures and works below any foreshore building line (particularly on redevelopment of land), other than those excepted by clause 23, and
  - (d) conservation and enhancement of waterfront structures of heritage value, and
  - (e) avoidance of adverse ecological effects on the waterways, and
  - (f) enhancement of the visual amenity of Lake Macquarie.
- (2) Clause 7 of the *Environmental Planning and Assessment Model Provisions 1980* is adopted for the purposes of this plan.

**Note—**

Clause 7 of the *Environmental Planning and Assessment Model Provisions 1980* allows the Council to fix a foreshore building line and sets out the effect of such a line.

- (3) *State Environmental Planning Policy No 1—Development Standards* applies to a

requirement made by clause 7 of those provisions, when adopted for the purposes of this plan, in the same way as it applies to a development standard.

- (4) The resolution of the Council cited as *Lake Macquarie Foreshore Building Line Resolution* and adopted by the Council on 18 July 1988 (copies of which are available from the office of the Council) is taken to have been made under clause 7 (1) of those provisions, as adopted for the purposes of this plan.
- (5) Any references in that resolution to a **current plan** are taken to be references to a current plan within the meaning of the *Conveyancing Act 1919*.

### **23 Foreshore development and development below DP high water mark**

- (1) Foreshore development and development for the purpose of utility installations may be carried out only with development consent between a foreshore building line that is fixed with respect to a DP high water mark and the DP high water mark.
- (2) Development below DP high water mark may be carried out only with development consent which must not be granted unless the consent authority is satisfied—
  - (a) that all existing structures and works on the land below DP high water mark will be removed before or within a reasonable time after development is carried out, or
  - (b) that it is unreasonable or unnecessary in the circumstances of the case for that removal to occur, having regard to the objectives of clause 22 and the provisions of any relevant development control plan.

### **24 Subdivision**

- (1) Despite any other provision of this plan, subdivision of land, other than that identified in subclause (9), may be carried out only with development consent.
- (2) Land in any zone may be subdivided only if the consent authority is satisfied—
  - (a) that the resulting lots will conform to the requirements in Schedule 2 (Subdivision standards) applicable to subdivision in that zone, and
  - (b) the resulting lots can be developed in accordance with this plan.
- (3) To avoid doubt, *State Environmental Planning Policy No 1—Development Standards* applies to a requirement referred to in subclause (2) (a) in the same way as it applies to a development standard.
- (4) Consent must not be granted to a subdivision of land in Zone 2 (1) or 2 (2) for the purpose of small lot housing unless consent has been or is also given to the erection on the land of dwellings that will comprise small lot housing.
- (5) Consent must not be granted for a subdivision of land in Zone 2 (1) for the purpose of dual occupancy-attached or dual occupancy-detached unless consent has been or is

also granted for the erection on the land of dwellings comprising that form of dual occupancy.

- (6) (Repealed)
- (7) The subdivision of land in Zone 2 (1) or 2 (2) for small lot housing is prohibited if it would result in the creation of any battle-axe lots.
- (8) The subdivision of land in Zone 10 is prohibited unless the lots proposed to be created are to be reserved or dedicated for public open space, public roads or environmental protection purposes.
- (9) Consent is not required for a subdivision for the purpose only of any one or more of the following—
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create—
    - (i) additional lots or the opportunity for additional dwellings, or
    - (ii) lots that are smaller than the minimum size provided for by this plan in relation to the land concerned,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

## **25 Demolition**

Except as provided otherwise by this plan, the demolition of a building or work requires development consent.

## **26 Dwelling houses and dual occupancies in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10**

- (1) This clause applies to land in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10.
- (2) In this clause—

***dwelling lot*** means—

- (a) an existing holding, or
- (b) a lot that complies with such of the requirements set out in Schedule 2

(Subdivision standards) as apply to the land comprising the lot.

**existing holding** means—

- (a) except as provided by paragraph (b), a lot, portion or parcel of land as it was on 21 August 1981, or
  - (b) where, on 21 August 1981, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were on that date.
- (3) A dwelling must not be erected or created on land to which this clause applies, except in accordance with this clause.
  - (4) Consent may be granted for the erection or creation of—
    - (a) a dwelling house or dual occupancy-attached on a dwelling lot in Zone 1 (1), 7 (2) or 7 (3), or
    - (b) a dwelling house on a dwelling lot in Zone 7 (1) or 10.
  - (5) Consent must not be granted for the erection or creation of a dwelling house or dual occupancy-attached on a dwelling lot if its erection or creation would mean—
    - (a) if the lot is in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10—that there is more than one dwelling house on the dwelling lot (counting any dwelling house already on the lot), or
    - (b) if the lot is in Zone 1 (1), 7 (2) or 7 (3)—that there are more than two dwellings on the dwelling lot (counting any dwelling already on the lot).
  - (6) Consent must not be granted for the erection or creation of a dual occupancy-attached or dual occupancy-detached on a neighbourhood lot in Zone 7 (3).
  - (7) If consent is granted for the erection or creation of a dwelling house or a dual occupancy-attached on land comprising an existing holding, the consent authority may impose a condition of consent that requires the consolidation of all lots, portions or parcels that comprise that existing holding.

**27 Dwelling houses, small lot housing and dual occupancies in Zone 1 (2), 2 (1), 2 (2) or 7 (5)**

- (1) This clause applies to land in Zone 1 (2), 2 (1), 2 (2) or 7 (5).
- (2) In this clause—

**dwelling lot** means a lot that—

- (a) was a lawfully created lot at the commencement of this plan, or

- (b) is a lot lawfully created after that commencement under a development consent granted before or after that commencement, or
  - (c) complies with such of the requirements set out in Schedule 2 (Subdivision standards) as apply to the land comprising the lot.
- (3) A dwelling must not be erected or created on land to which this clause applies, except in accordance with this clause.
- (4) Consent may be granted for the erection or creation of—
  - (a) a dwelling house on a dwelling lot in Zone 2 (2), or
  - (b) a dwelling house or dual occupancy-attached on a dwelling lot in Zone 1 (2) or 7 (5), or
  - (c) a dwelling house, dual occupancy-attached or dual occupancy-detached on a dwelling lot in Zone 2 (1).
- (5) Consent must not be granted for the erection or creation of a dwelling house, dual occupancy-attached or dual occupancy-detached on a dwelling lot if its erection or creation would mean—
  - (a) if the lot is in Zone 1 (2), 2 (1), 2 (2) or 7 (5)—that there is more than one dwelling house on the dwelling lot (counting any dwelling house already on the lot), or
  - (b) if the lot is in Zone 1 (2), 2 (1) or 7 (5)—that there are more than two dwellings on the dwelling lot (counting any dwelling already on the lot).
- (6) Consent must not be granted for the erection or creation of a dual occupancy-attached or dual occupancy-detached on a neighbourhood lot in Zone 1 (2) or 7 (5).
- (7) Consent must not be granted for the erection or creation of a dual occupancy-attached or dual occupancy-detached on a battle-axe lot in Zone 2 (1).
- (8) Consent must not be granted for the erection or creation of small lot housing in Zone 2 (1) or 2 (2)—
  - (a) on a battle-axe lot, or
  - (b) on a lot less than 1,000 square metres in area.
- (9) Consent must not be granted to the erection or creation in Zone 2 (1) of—
  - (a) a dual occupancy-attached on a lot less than 500 square metres in area, or
  - (b) a dual occupancy-detached on a lot less than 600 square metres in area.



## **28 Dwelling houses on South Wallarah Peninsula in Zone 7 (1)**

Despite any other provision of this plan, a person must not erect a dwelling house on an allotment of land within Zone 7 (1) within the South Wallarah Peninsula, being the land south of the land to which *Lake Macquarie Local Environmental Plan 2000—North Wallarah Peninsula* applies, unless the allotment has an area of not less than 100 hectares.

### **28A Residential flat buildings and multiple dwelling housing in Zone 2 (2)**

- (1) Consent must not be granted to the erection or creation of a residential flat building on—
  - (a) an irregular or standard corner allotment in Zone 2 (2) unless the allotment has a minimum area of 1,500 square metres and a minimum width of 30 metres, or
  - (b) a battle-axe allotment in Zone 2 (2) unless the allotment has a minimum area of 2,000 square metres and the battle-axe access handle has a minimum width of 8 metres, or
  - (c) any other irregular allotment or standard allotment in Zone 2 (2) unless the allotment has a minimum area of 1,200 square metres and a minimum width of 30 metres.
- (2) Consent must not be granted to the erection or creation of multiple dwelling housing on—
  - (a) a corner allotment in Zone 2 (2) unless the allotment has a minimum area of 1,200 square metres and a minimum width of 30 metres, or
  - (b) a battle-axe allotment in Zone 2 (2) unless the allotment has a minimum area of 1,500 square metres and the battle-axe access handle has a minimum width of 8 metres, or
  - (c) any other allotment in Zone 2 (2) unless the allotment has a minimum area of 900 square metres and a minimum width of 25 metres.
- (3) In this clause—

**width** means the distance of the perpendicular line between the side boundaries, as measured at the front building setback.

## **29 Building heights**

- (1) (Repealed)
- (2) In considering an application for consent to the erection of a building the whole or part of which exceeds 8 metres, the consent authority must take into consideration whether that height is compatible with the heights of other buildings in the immediate

vicinity or locality and is compatible with—

- (a) the site attributes, and existing or proposed uses of the land to which the application relates, and
  - (b) the other requirements of this plan and the provisions of any relevant development control plan.
- (3) In the instance of development in proximity to an airport, the heights of buildings must comply with the applicable Obstacle Limitation Surface.

### **30 Control of pollution**

Consent must not be granted to development unless the consent authority is satisfied that all reasonable and practicable control measures will be implemented to minimise pollution likely to arise from carrying out that development.

**Note—**

Pollution may be of air, noise or water. Water pollution includes nutrient and sediment loading.

### **31 Erosion and sediment control**

- (1) This clause applies to development that involves or that, in the opinion of the consent authority, may give rise to the exposure of the soil surface of land to the action of wind or water, whether as a consequence of—
- (a) the carrying out of earthworks, or
  - (b) the destruction or removal of vegetation, or
  - (c) the carrying out of any other class of development.
- (2) Consent must not be granted to development to which this clause applies unless—
- (a) the consent authority is satisfied that all reasonable and practicable control measures will be carried out to prevent or minimise the effects of erosion and sediment, and
  - (b) where the area of soil surface exposure is greater than 250 square metres, but less than 2,500 square metres, the consent authority has considered an erosion and sediment control plan complying with erosion and sediment control guidelines adopted by the Council, and whether the consent will include a condition requiring the development to be carried out in accordance with that plan, and
  - (c) where the area of soil surface exposure is 2,500 square metres or greater, the consent authority has considered a soil and water management plan complying with construction guidelines adopted by the Council, and whether the consent will include a condition requiring the development to be carried out in accordance with that plan.

### 32 Flood prone land

- (1) Despite any other provision of this plan, a person must not erect a structure or carry out a work on flood prone land without development consent.
- (2) Before granting consent required by this clause, the consent authority must—
  - (a) consider the contents of any flood management plan or development control plan applying to the land that has been prepared in accordance with the principles contained in the flood management manual, which is available from the office of the Council, and
  - (b) be satisfied that to carry out the development in accordance with the consent would be consistent with flood hazard and levels of risk that are acceptable to the community.
- (3) The consent authority may, by a condition of consent to the carrying out of development referred to in subclause (1), require all floors or levels of the structure or work to be at a height sufficient, in the opinion of the consent authority, to prevent or reduce the incidence of flooding of that structure or work, or of adjoining land.

### 33 Bush fire considerations

- (1) This clause applies to bush fire prone land.

**Note—**

Section 146 of the Act provides that bush fire prone land is land recorded by the Council as such on a map certified by the Commissioner of the NSW Rural Fire Service as a bush fire prone land map for the area of the Council.

- (2) A person must not carry out bush fire hazard reduction work without development consent unless the person is authorised to carry out the work without consent by or under the *Rural Fires Act 1997* or another Act.
- (3) Before granting consent required by this clause, the consent authority must—
  - (a) have regard to the relevant provisions of *Planning for Bush Fire Protection*, available at the office of the Council, and
  - (b) be satisfied that—
    - (i) the measures proposed to avoid or mitigate the threat from bush fire, including the siting of the proposed development, the design of, and materials used in, any structures involved, the clearing of vegetation, and the provision of asset protection zones, landscaping and fire control aids (such as roads and water supplies), are adequate for the locality, and
    - (ii) as far as possible, the potential impact on the environment of mitigation measures proposed is minimised.

(4) A development application lodged with the Council, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* is to be determined as if that Policy had not commenced.

(5) In this clause—

**Planning for Bush Fire Protection** means the document prescribed by the *Environmental Planning and Assessment Regulation 2021*, section 271.

### 34 Trees and native vegetation

**Note—**

Part 6 contains controls relating to trees that are heritage items or within heritage conservation areas.

(1) This clause applies to all land except—

(a) State forest or other Crown-timber lands within the meaning of the *Forestry Act 1916*, or

(b) land within Zone 8.

(2) Except as provided by subclause (3), a person must not clear any tree or any native vegetation unless in accordance with a development consent that is in force.

(3) Consent is not required for—

(a) the clearing of trees or native vegetation authorised or required by or under the *Electricity Supply Act 1995*, or

(b) the clearing of trees or native vegetation authorised or required by or under the *Roads Act 1993*, or

(c) the clearing or harvesting of trees grown commercially or domestically for their edible fruit, or

(d) the control of noxious weeds within the meaning of the *Noxious Weeds Act 1993*, or

(e) the clearing of commercially grown plantation trees in accordance with the *Plantations and Reafforestation Act 1999*, or

(f) the clearing of native vegetation without consent if authorised under the *Native Vegetation Conservation Act 1997*, any other Act or another environmental planning instrument, or

(g) the removal of hazardous dead trees within Zone 2 (1), 2 (2), 3 (1), 3 (2), 4 (1), 4 (2), 4 (3), 5, 6 (1) or 6 (2), except where the trees provide habitat for species listed in Schedule 1 or 2 to the *Threatened Species Conservation Act 1995*, or

- (h) the removal of native vegetation on land, other than in Zone 7 (1), for the purpose of creating or maintaining landscaped and lawn areas where—
  - (i) the removal, injury or destruction of trees is not involved, and
  - (ii) the area to be cleared is less than 600 square metres in total and is on the same allotment as, and within the curtilage of, a dwelling for which development consent has been granted, and
  - (iii) the soil surface exposed in any period of 90 consecutive days will not exceed 250 square metres, and
  - (iv) the slope of the land does not exceed 15 degrees, and
  - (v) the work does not involve the disturbance of native vegetation which is habitat for species listed in Schedule 1 or 2 to the *Threatened Species Conservation Act 1995*, and
  - (vi) the area is not subject to a development consent that requires the trees or native vegetation to be retained, or
- (i) bushfire hazard reduction work, within the meaning of the *Rural Fires Act 1997*, that is exempted from any requirement for development consent by the operation of that Act, or
- (j) the clearing of any tree (other than any tree listed on the Council's *Significant Tree Register*) or native vegetation that is—
  - (i) within 5 metres of the outermost projection of a lawfully used building (being a building that is not exempt development), and
  - (ii) on the same allotment as that building,but only if a development consent does not require the tree or native vegetation to be retained, or
- (k) the clearing of any tree (other than a tree listed on the Council's *Significant Tree Register*) or native vegetation that is—
  - (i) within 1 metre of a sealed driveway to a lawfully used building (being a building that is not exempt development), and
  - (ii) on the same allotment as that building,but only if a development consent does not require the tree or native vegetation to be retained, or
- (l) the clearing of any tree or native vegetation where the Council is satisfied beforehand that the tree or native vegetation ought to be cleared because it is

dangerous to life or property, or

(m) the clearing of any tree or native vegetation required by an order given under Division 1 of Part 2 of Chapter 7 of the *Local Government Act 1993*.

(4) Consent must not be granted for the clearing of any tree or native vegetation unless the consent authority has considered a statement of environmental effects that assesses in respect of the vicinity of the proposed clearing—

(a) soil stability and prevention of land degradation, and

(b) water quality and associated ecosystems such as streams, rivers, waterbodies or waterways, and

(c) scenic or environmental amenity, and

(d) vegetation species, vegetation communities, flora and fauna corridors and natural wildlife habitats.

(5) Nothing in this clause affects any requirement made by or under the *Native Vegetation Conservation Act 1997*.

### 35 Acid sulfate soils

(1) For the purpose of this clause, **works** means—

(a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams, and detention basins), foundations and flood mitigation works), or

(b) any other works that are likely to lower the water table, or

(c) routine maintenance.

(2) A person must not, without development consent, carry out works described in the following Table on land of the class specified for those works, except as provided by subclause (3).

<b>Class of land as shown on Acid Sulfate Soils Planning Maps</b>	<b>Works</b>
---	--------------

1	Any works.
---	------------

2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
---	---

- |   |  |
|---|--|
| 3 | Works beyond 1 metre below the natural ground surface.<br>Works by which the watertable is likely to be lowered beyond 1 metre below natural ground surface.   |
| 4 | Works beyond 2 metres below the natural ground surface.<br>Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface. |
| 5 | Works within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.    |

- (3) This clause does not require consent for the carrying out of those works if—
- (a) a copy of a preliminary assessment of the proposed works, undertaken in accordance with the *Acid Sulfate Soil Manual*, has been given to the Council, and
  - (b) the Council has provided written advice to the person proposing to carry out the works confirming that the results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soil Manual*.
- (4) Consent required by this clause must not be granted unless the consent authority has considered—
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soil Manual*, and
  - (b) the likelihood of the proposed development resulting in the discharge of acid water, and
  - (c) (Repealed)
- (5) Despite subclause (2), development may be carried out by the Council or the Hunter Water Corporation without consent, being development consisting of—
- (a) emergency works, or
  - (b) routine management, or
  - (c) minor works.
- (6) Where the Council or the Hunter Water Corporation carries out development described in subclause (5) and encounters, or is likely to encounter, acid sulfate soils, the Council or the Hunter Water Corporation must properly deal with those soils in accordance with the proposed development in accordance with the *Acid Sulfate Soil Manual* so as to minimise the actual or potential impact on the environment arising from the disturbance of the soils.

### 36 Mixed use development

- (1) Consent must not be granted for mixed use development unless the consent authority is satisfied that—
  - (a) the gross floor area that will be used for commercial, retail or recreation facilities (including recreational facilities (indoor) for development in Zone B4) will be not less than 20 percent of the total gross floor area within the site area to which the development application relates, and
  - (b) the gross floor area that will be used for dwellings and any accommodation for tourists will be not less than 50 percent of that total.
- (2) Despite subclause (1), the Council may grant consent for mixed use development even though the gross floor area that will be used for commercial, retail or recreation facilities is less than 20% of the total gross floor area within the site if it is satisfied—
  - (a) that the proposed gross floor area is justified on economic grounds, and
  - (b) that the proposed development will provide an active street frontage.
- (3) In considering whether it is satisfied of the matters referred to in subclause (2), the Council must take into account the matters listed in clause 21 (a)-(j) to the extent that they are relevant to the proposed development.
- (4) 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. Clearly defined entrances, windows and shop fronts are elements of the building façade that contribute to an active street frontage.

### 37 Unzoned land

- (1) A person must not carry out development on unzoned land without development consent.
- (2) Development of unzoned land is not exempt or complying development, despite any other provision of this plan.
- (3) Consent must not be granted for development of unzoned land unless the consent authority has considered the objectives of the zones in which adjoining land is situated.

### 38 Advertising structures and signs

Despite any other provision of this plan, the erection and use of an advertising sign or advertising structure of a type referred to in Schedule 1 requires consent if it is not exempt development.



### **39 Additional development allowed on certain land**

- (1) Nothing in this plan prevents a person, with development consent, from carrying out on land described in Column 1 of Schedule 7 any development specified in relation to that land in Column 2 of Schedule 7, subject to such conditions (if any) as may be so specified.
- (2) If any development specified in Schedule 7 in relation to land is permissible with development consent subject to a condition that consent to the development must be obtained or applied for within a specified period, the consent authority is not prevented from granting consent after that period to the carrying out of alterations or extensions to, or the rebuilding of, a structure or place on that land for which such a consent has been granted.

### **40 Development for the purpose of agriculture on land in Zone 7 (2)**

- (1) In this clause—

***nominated owner*** means the person who, on the appointed day, owned a retained holding.

***retained holding*** means—

- (a) a lot, portion or parcel of land as it was on the appointed day, or
  - (b) where, on the appointed day, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels as they were on that day.
- (2) This clause applies to a retained holding only if—
    - (a) not less than 70% of the retained holding is within Zone 7 (2), and
    - (b) immediately prior to the appointed day, the retained holding was within a zone in which development for the purpose of agriculture was permissible either with or without consent.
  - (3) Nothing in this plan prevents the nominated owner from carrying out development on a retained holding for the purpose of agriculture (other than intensive agriculture), but only with development consent.

### **41 Development for the purpose of retirement villages**

- (1) This clause aims to maintain the opportunity for the development of retirement village style accommodation for aged persons in appropriate locations where the land satisfies the criteria specified in subclause (5).
- (2) This clause applies to—

(a) land within Zone 2 (1), and

(b) land that is not within Zone 2 (1), 7 (1), 7 (4), 8 or 9, but part or all of which immediately adjoins, or is within 400 metres of, land within Zone 2 (1).

(3) In this clause—

**retirement village** means a complex containing residential premises that are predominantly or exclusively occupied, or intended to be predominantly or exclusively occupied, by persons aged 55 years or older, which provides access to meals, cleaning, emergency assistance, and a transport service for residents.

(4) Nothing in this plan prevents a person, with development consent, from carrying out development on any land to which this clause applies for the purpose of a retirement village.

(5) Despite subclause (4), consent may be granted to development for the purpose of a retirement village only if the consent authority is satisfied that—

(a) the land on which the development will be carried out is of sufficient size to accommodate a minimum 70 unit retirement village development, and

(b) the land has frontage to a formed public road servicing nearby urban areas, and

(c) the development is able to be serviced with reticulated water, sewerage and electricity, and

(d) at least 70% of the proposed development area comprises land with a slope of less than 20% grade.

#### **42 Consent to development subject to special requirements**

(1) Consent must not be granted to development on any land described in Column 1 of Schedule 8 unless the consent authority has had regard to the development control plan or master plan required for the land by Column 2 of that Schedule.

(2) Consent must not be granted to development on any land described in Column 1 of Schedule 9 unless the consent authority is satisfied, whether by the imposition of a condition on the consent or otherwise) that any requirement specified for the land in Column 2 of that Schedule has been or will be met.

#### **42A Restricted development**

Despite any other provision of this plan, the only development permissible on land described in Column 1 of Schedule 11 is development specified for the land in Column 2 of that Schedule.

## **42B Environmentally sensitive land**

- (1) The objectives of this clause are as follows—
  - (a) to ensure that adverse impacts of proposed development on environmentally sensitive land are minimised or offset,
  - (b) to identify the land to which this clause applies as environmentally sensitive land.
- (2) This clause applies to the land shown edged heavy black and identified as “Clause 42B” on the maps, or sheets of maps, marked as follows—

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 50)—Sheet 2*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 59)—Sheet 1*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 61)—Sheet 2*
- (3) When assessing a development application for development on land to which this clause applies, the Council must consider—
  - (a) whether the proposed 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 proposed 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 Council 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 proposed development will mitigate, minimise or offset that impact.

## **Part 6 Heritage provisions**

### **43 Objective**

The objective of this Part is to protect and conserve archaeological sites and places of Aboriginal, natural or European cultural significance. It does this by making provisions that conserve the remaining fabric, relics, settings and views, and evidence of the cultural significance of heritage items and the environment of heritage conservation areas.

### **44 Protection of heritage items and heritage conservation areas**

The following development may be carried out only with development consent—

- (a) demolition of, or movement of the whole or a part of, a heritage item,
- (b) demolition of, or movement of, a building, structure, work, relic or tree within a heritage conservation area,
- (c) alteration of, or any addition to, a heritage item that makes substantial structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
- (d) alteration of a building, a structure, work, relic, or tree within a heritage conservation area by making substantial structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
- (e) alteration of a heritage item by making substantial structural changes to its interior,
- (f) disturbance or excavation of a place of Aboriginal heritage significance or 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,
- (g) erection of a structure on, or subdivision of, land on which a heritage item is located or which is within a heritage conservation area.

**Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

**45 Development consent is not required**

- (1) Development consent is not required by clause 44 if, in the opinion of the Council—
  - (a) the proposed development is of a minor nature or consists of maintenance of a heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
  - (b) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area.

**46 Cemetery or burial grounds**

Development consent is not required for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance—

- (a) the creation of a new grave or monument,
- (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

#### **47 Assessment of heritage significance**

- (1) Before granting consent required by this Part, the consent authority must assess the extent to which the carrying out of the proposed development will affect the heritage significance of the heritage item or heritage conservation area concerned.
- (2) In the case of proposed development that would affect a heritage item, that assessment must include consideration of a heritage impact statement that addresses—
  - (a) the heritage significance of the item as part of the environmental heritage of Lake Macquarie City local government area,
  - (b) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or cultural features,
  - (c) the measures proposed to conserve the heritage significance of the item and its setting,
  - (d) whether any archaeological site or potential archaeological site will be adversely affected by the proposed development,
  - (e) the extent to which the carrying out of the proposed development will affect the form of any historic subdivision.
- (3) In the case of proposed development in a heritage conservation area, that assessment must include consideration of a heritage impact statement that addresses the following—
  - (a) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance,
  - (b) the impact that the proposed development will have on the heritage significance of the heritage conservation area,
  - (c) the compatibility of the proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development,
  - (d) the measures proposed to conserve the significance of the heritage conservation area and its setting,
  - (e) whether any landscape or horticultural features will be affected by the proposed development,
  - (f) whether any archaeological site or potential archaeological site will be affected by the proposed development,

- (g) the extent to which the carrying out of the proposed development in accordance with the consent will affect any historic subdivision pattern.

#### **48 Development requiring notification**

- (1) A development application proposing the following development requires notification in accordance with *Lake Macquarie Development Control Plan No 1—Principles of Development*—
  - (a) the demolition of a heritage item,
  - (b) the carrying out of any development allowed by clause 53 (Conservation incentives).
- (2) Subclause (1) does not apply to designated development.

#### **49 (Repealed)**

#### **50 Development affecting places or sites of known or potential Aboriginal heritage significance**

- (1) Consent must not be granted for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, unless the consent authority has considered a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site.
- (2) Except where the proposed development is integrated development, the consent authority must notify the local Aboriginal communities (in such a way as it thinks appropriate) of the development application and take into consideration any comments received in response within 21 days after the relevant notice is sent.
- (3) (Repealed)
- (4) In the instance of development in proximity to items or places identified in Schedule 6 or recorded or held by a local Aboriginal Land Council, consultation with the relevant local Aboriginal Land Council is required before consent may be granted. Consultation is sufficient for the purposes of this requirement if the consent authority has taken into consideration all comments received from the local Aboriginal Land Council within 21 days after a copy of the application and statement are sent to it by the consent authority.

#### **51 Development affecting known or potential archaeological sites or relics of European heritage significance**

- (1) Consent must not be granted for development that will be carried out on an

archaeological site or potential archaeological site or a relic that has European heritage significance identified in Schedule 4 (whether or not it is also the site of a relic or potential relic of Aboriginal significance) unless the consent authority has considered a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site.

- (2) Before granting consent to development under this clause, the consent authority must be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.
- (3) (Repealed)
- (4) This clause does not apply if the proposed development does not involve disturbance of below ground deposits and the consent authority is of the opinion that the heritage significance of any above ground relics would not be adversely affected by the proposed development.

## **52 Development in vicinity of a heritage item**

- (1) Consent must not be granted for development in the vicinity of a heritage item unless the consent authority has considered a heritage impact statement that includes recommendations for the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works, and for any modification that will reduce the impact of the proposed development on the heritage significance of the heritage item.
- (2) Development is in the vicinity of a heritage item for the purposes of this clause if, in the opinion of the consent authority, the development—
  - (a) may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) may undermine or otherwise cause physical damage to a heritage item, or
  - (c) will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) Before granting consent for development to which this clause applies, the consent authority must take into account the impact of the proposed development on the heritage significance of the heritage item, on any heritage conservation area within which it is situated and on the visual curtilage and setting of the heritage item.
- (4) A heritage impact statement required by this clause should include recommendations for the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

### **53 Conservation incentives**

Consent may be granted to the use of a building that is a heritage item, or of the land on which such a building is erected (even though the use would be otherwise prohibited by this plan) if the consent authority is of the opinion that—

- (a) the retention of the heritage item depends on the granting of consent, and
- (b) the proposed use will be in accordance with a conservation management plan which has been prepared to the satisfaction of the Council, and
- (c) the granting of consent to the proposed use will ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use will not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use will not adversely affect the amenity of the surrounding area.

### **54 Development in heritage conservation areas**

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In forming that opinion, the consent authority must consider, where relevant—
  - (a) the scale, bulk and form, including detailing and articulation, of the building, and
  - (b) the pitch and form of the roof, and
  - (c) the style, size, proportion and position of the openings for windows or doors, and
  - (d) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building, and
  - (e) any other matter that the consent authority considers relevant to the assessment of the application.

## **Part 7 Administrative provisions**

### **55 Acquisition of land required for community purposes**

- (1) The owner of land within Zone 2 (1), 3 (1), 4 (1), 4 (2), 5, 6 (1), 6 (2), 7 (1), 7 (2) or 10 and shown cross-hatched (but not otherwise hatched) on the map may, by notice in writing, require the Council to acquire the land.
- (2) On receipt of a notice referred to in subclause (1), but subject to subclause (3), the



Council must acquire the land.

- (3) However, nothing in this plan, other than subclause (4), requires the Council to acquire land—
  - (a) if the land may be required to be dedicated to the Council as a condition of consent to the carrying out of development, or
  - (b) within Zone 6 (1) or 7 (2) if, in the opinion of the Council, the need for the open space has not yet been created by residential development in the vicinity.
- (4) On receipt of a notice referred to in subclause (1), the Council must acquire land within Zone 6 (1) or 7 (2) if the Council is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.

**Note—**

If land, other than land shown cross-hatched on the map, 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](#)).

**56 Interim development of land required for community purposes**

- (1) A person must not carry out development without development consent on land within Zone 2 (1), 3 (1), 4 (1), 4 (2), 5, 6 (1), 6 (2), 7 (1), 7 (2) or 10, and shown by cross-hatching on the map, before it is acquired in accordance with this plan.
- (2) A person must not carry out development on land referred to in subclause (1) that may be required to be acquired by the Council so as to render the land unfit for the purpose for which it is zoned.
- (3) Consent must not be granted for development of land referred to in subclause (1) before it is acquired in accordance with this plan unless the consent authority has considered—
  - (a) the need for the proposed development on the land, and
  - (b) the impact of the proposed development on the existing and likely future use of the land, and
  - (c) the need to retain the land for its existing or likely future use, and
  - (d) the effect of the proposed development on the cost of acquisition, and
  - (e) the imminence of acquisition, and
  - (f) the cost of reinstatement of the land for the purpose for which the land is to be acquired.

- (4) Conditions may be imposed on such a consent that limit the period during which development may be carried out in accordance with the consent and require—
- (a) the removal of any structure or work for which the consent was granted, and
  - (b) the reinstatement of the land or removal of any waste, refuse or contaminants, without the payment of compensation by the Council.

#### **57 Acquisition of land required for State roads**

- (1) The owner of any land within Zone 5 identified by hatching (other than cross-hatching) on the map may, by notice in writing, require the RTA to acquire that land.
- (2) On receipt of such a notice, the RTA must acquire the land if—
- (a) the land is vacant, or
  - (b) the land is not vacant but—
    - (i) is included in a 5 year works program of the RTA, current at the time of receipt of the notice, or
    - (ii) the RTA will not give concurrence required by clause 56 for development of the land, or
    - (iii) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.
- (3) The RTA is not required to acquire land if, because of development consent, that land could reasonably be expected to be dedicated for a State road.

#### **58 (Repealed)**

#### **59 Acquisition of coastal land**

**Note—**

Nothing in this clause is to be construed as requiring a public authority to acquire land—see section 27 (3) of the Act.

- (1) This clause applies to land within Zone 7 (1) or 7 (4) shown by hatching (but not cross-hatching) on the map.
- (2) The owner of any land to which this clause applies may, by notice in writing, require the corporation to acquire the land.
- (3) On receipt of a notice referred to in subclause (2), the corporation must acquire the land, unless the land may be required to be provided as a condition of consent to the carrying out of development.

- (4) Despite any other provision of this plan, development may be carried out only with development consent on land to which this clause applies and only for the purpose of the following—
  - (a) agriculture (and buildings incidental to the use of the land for agriculture),
  - (b) dams,
  - (c) drainage,
  - (d) dwelling houses.
- (5) (Repealed)
- (6) Before granting consent under subclause (4), the Council must take into consideration the following—
  - (a) the need for the proposed development on the land,
  - (b) the impact of the proposed development on the existing and likely future use of the land,
  - (c) the need to retain the land for its existing or likely future use,
  - (d) the effect of the proposed development on the cost of acquisition,
  - (e) the imminence of acquisition,
  - (f) the cost to reinstate the land for the purpose for which the land is to be acquired.

**60 Development on land adjoining Zones 5, 7 (1), 7 (4) and 8**

- (1) Consent must not be granted for development on land adjoining land within Zone 5 unless the consent authority is satisfied that the proposed development will be consistent with the efficient operation of the potential or existing infrastructure development within the zone.
- (2) Consent must not be granted to development on land adjoining or adjacent to land within Zone 7 (1) unless the consent authority is satisfied that the proposed development is consistent with the effective conservation of the land within Zone 7 (1) and its protection from adverse impacts, including stormwater run-off, erosion and sedimentation, pollution, weed infestation, feral or domestic animals, chemicals, nutrients and the like.
- (2A) Consent must not be granted to development on land adjoining or adjacent to land within Zone 7 (4) unless the consent authority is satisfied that the proposed development is consistent with—
  - (a) the effective conservation of the coastal corridor and cultural heritage within the

zone, and

- (b) the provision of the coastal walk and public access within the zone, and
- (c) the protection of land within the zone from—
  - (i) any adverse impacts on the scenic or visual values of the land, and
  - (ii) any stormwater runoff, erosion and sedimentation, pollution, weed infestation, feral or domestic animals, chemicals, nutrients and the like.

- (3) The consent authority must not grant consent to development on land adjoining or adjacent to land within Zone 8 if it is of the opinion that the proposed development is not consistent with the provisions contained in the *Guidelines for developments adjoining Department of Environment and Climate Change land* (as in force on the day on which this subclause, as substituted by *State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2008*, commenced).

#### **61 Classification and reclassification of public land as operational land**

- (1) The public land referred to in Part 1 or Part 2 of Schedule 3 is classified or reclassified as operational land for the purposes of the *Local Government Act 1993*.
- (1A) The public land described in Part 1 of Schedule 3—
  - (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.
- (2) In accordance with section 30 of the *Local Government Act 1993*, land described in Columns 1 and 2 of Part 2 of Schedule 3, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, 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 3, and
  - (b) any reservations that except land out of a Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Land Management Act 2016*).
- (3) Before the relevant amending plan inserted a description of land in Part 2 of Schedule 3, the Governor approved of subclause (2) applying to the land.

- (4) In this clause, **the relevant amending plan**, in relation to land described in Part 2 of Schedule 3, means this plan or, if the description of the land is inserted into that Part by another local environmental plan, that plan.

## **62 Public infrastructure in urban release areas**

- (1), (2) (Repealed)
- (3) This clause prevails over any other provision of this plan to the extent of any inconsistency.
- (4)–(5) (Repealed)
- (6) **Public utility infrastructure** Development consent must not be granted for development on land in an urban release area unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (7) Subclause (6) does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (8) **Interpretation** In this clause—

**public utility infrastructure** means infrastructure for any of the following purposes—

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

**urban release area** means the land shown edged heavy black on the following maps—

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 11)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 14)—Sheet 3.*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 20)—Sheet 1*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 24)—Sheet 2*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 33)—Sheet 2*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 36)—Sheet 1*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 38)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 41)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 42)—Sheets 1 and 2*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 45)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 46)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 50)—Sheet 3*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 59)—Sheet 1*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 61)—Sheet 3*

*State Environmental Planning Policy (Major Projects—North Cooranbong) Amendment 2008—North Cooranbong Urban Release Area Map*

## **Part 8 Middle Camp site**

### **Division 1 Preliminary**

#### **63 Application of Part**

- (1) This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **Middle Camp site**.
- (2) No other provisions of this plan (other than clauses 4 and 6) apply to land within the Middle Camp site.

#### **64 Interpretation**

- (1) In this Part—

**Additional Permitted Uses Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Additional Permitted Uses Map](#).

**Council** means the Council of the City of Lake Macquarie.

**Height of Buildings Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Height of Buildings Map](#).

**heritage conservation area** means an area of land of heritage significance shown on the [Heritage Map](#) as a heritage conservation area.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in clause 78.

**Heritage Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Heritage Map](#).

**Land Application Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Land Application Map](#).

**Land Reservation Acquisition Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [Lake Macquarie Local Environmental Plan 2004—Middle Camp—Land Zoning Map](#).

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) unless it is otherwise defined in this Part.

## 65 Maps

- (1) A reference in this Part to a named map adopted by this Part 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 Part to any such 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 Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

## 66 Relationship with this Part and other environmental planning instruments

The only other environmental planning instruments that apply, according to their terms, to land within the Middle Camp site are all State environmental planning policies, except the following—

- (a) [State Environmental Planning Policy No 1—Development Standards](#),
- (b) [State Environmental Planning Policy No 71—Coastal Protection](#).

## Division 2 Provisions applying to development in Middle Camp site

### 67 Land use zones

For the purposes of this Part, land within the Middle Camp site is in a zone as follows if the

land is shown on the [Land Zoning Map](#) as being in that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone RE1 Public Recreation,
- (c) Zone E1 National Parks and Nature Reserves,
- (d) Zone E2 Environmental Conservation.

#### **68 Objectives of land use zones to be taken into account**

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.

#### **69 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows—
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment of the Wallarah Peninsula,
  - (d) to encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
  - (e) to ensure that any non-residential development is compatible with the amenity of the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—
  - home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—
  - bed and breakfast accommodation; boarding houses; building identification signs; business identification signs; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; environmental protection works; group homes; health consulting rooms; home businesses; home industries; information and education facilities; neighbourhood shops; recreation areas; recreation facilities (outdoor); respite day care centres; roads; semi-detached dwellings; shop top housing.



- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

## **70 Zone RE1 Public Recreation**

- (1) The objectives of Zone RE1 Public Recreation are as follows—
- (a) to enable land to be used for open space or recreational purposes,
  - (b) to provide a range of recreational settings and activities and compatible land uses,
  - (c) to protect and enhance the natural environment for recreational purposes.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation—
- environmental protection works; roads.
- (3) Development for the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation—
- car parks; community facilities; environmental facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor).
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

## **71 Zone E1 National Parks and Nature Reserves**

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows—
- (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974*,
  - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
  - (c) 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) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves—
- uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves—
- nil.
- (4) Except as otherwise provided by this Part, development is prohibited on land within

Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

## **72 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
  - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—  
environmental protection works.
- (3) Development for any of the following purposes is permitted with development consent on land within Zone E2 Environmental Conservation—  
environmental facilities; roads.
- (4) Except as otherwise provided by this Part, development for the following purposes is prohibited on land within Zone E2 Environmental Conservation—  
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## **73 Subdivision—consent requirements**

Land within the Middle Camp site may be subdivided, but only with development consent.

## **74 Height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to ensure that development has an appropriate scale and height in relation to its visual, landscape and heritage setting,
  - (b) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.
- (2) The height of a building on land within the Middle Camp site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

## **75 Neighbourhood shops in Zone R2 Low Density Residential**

- (1) The objective of this clause is to set a maximum retail floor area for neighbourhood

shops in Zone R2 Low Density Residential.

- (2) The retail floor area of a neighbourhood shop must not exceed 125 square metres.

## **76 Exceptions to development standards**

- (1) The objectives of this clause are—

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

- (2) 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

### **Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).

- (5), (6) (Repealed)

- (7) 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.

## **77 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 the physical, land-based right of access of the public, where practicable, 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.

## 78 Heritage conservation

### Note—

Heritage items are listed and described in the table to this clause. The [Heritage Map](#) may also show the location of a heritage item.

- (1) **Objectives** The objectives of this clause are as follows—
  - (a) to conserve the environmental heritage of the Middle Camp site,
  - (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 the Table to this clause 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 under a State environmental planning policy.

- (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 Part, 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.
- (11) For the purposes of the definition of **heritage item** in clause 64 (1), the location and nature of a heritage item is specified in the Table to this clause.

**Table—heritage items**

<b>Item number</b>	<b>Item description</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>
1	Archaeological remains of house and associated structures	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local
2	Workshop building	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local

3	House (former mine engineer's residence)	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local
4	House (former electrical engineer's residence) (CH-38)	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local
5	Cottage (CH-30)	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local
6	Cottage (CH-31)	Colliery Road, Middle Camp	Lot 223, DP 1102989	Local

## 79 (Repealed)

## 80 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Middle Camp site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity and gas,
  - (c) the disposal and management of sewage.

## 81 Development control plan

- (1) The objective of this clause is to ensure that development on land within the Middle Camp site 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 within the Middle Camp site unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—

- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including 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 any of the following development—
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if 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 environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

## **82 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part 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 \(Transport and Infrastructure\) 2021](#), Chapter 2.

- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### 83 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 to which this clause applies, 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 Land Reservation Acquisition Map**

**Authority of the State**

Zone RE1 Public Recreation and marked “Local open space”

The Council

Zone E1 National Parks and Nature Reserves and marked “National Park”

Minister administering the [National Parks and Wildlife Act 1974](#)

**Note—**

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to enable the designation of the acquiring authority under this Part. 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 and Infrastructure (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

- (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.

### 84 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Middle Camp site to be

carried out in accordance with this Part 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 relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, 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).

#### **85 Subdivision and permitted dwelling houses on certain land in Zone E2**

- (1) This clause applies to the land shown edged heavy black on the [Additional Permitted Uses Map](#).
- (2) Development consent must not be granted to the subdivision of land to which this clause applies unless it is for the purpose of excising a lot for a dwelling house that existed at the commencement of this Part (an **existing dwelling house**) or for any dwelling house that replaces such a dwelling.
- (3) Development for the purposes of a dwelling house on land to which this plan applies is permitted with development consent if—
- (a) the dwelling house is to replace an existing dwelling house, and
  - (b) the building envelope of the new dwelling house is no larger than that of the existing dwelling house.

- (4) This clause has effect despite any other provision of this Part.

## **Part 9 Nords Wharf site**

### **Division 1 Preliminary**

#### **86 Application of Part**

- (1) This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **Nords Wharf site**.
- (2) No other provision of this Plan (other than clauses 4 and 6 and Part 6) applies to land within the Nords Wharf site.

#### **87 Interpretation**

- (1) In this Part—

**Council** means the Council of the City of Lake Macquarie.

**Height of Buildings Map** means the [Lake Macquarie Local Environmental Plan 2004—Nords Wharf—Height of Buildings Map](#).

**Land Application Map** means the [Lake Macquarie Local Environmental Plan 2004—Nords Wharf—Land Application Map](#).

**Land Reservation Acquisition Map** means the [Lake Macquarie Local Environmental Plan 2004—Nords Wharf—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [Lake Macquarie Local Environmental Plan 2004—Nords Wharf—Land Zoning Map](#).

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) unless it is otherwise defined in this Part.

#### **88 Maps**

- (1) A reference in this Part to a named map adopted by this Part 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 Part to any such 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 Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

## **89 Relationship with this Plan and other environmental planning instruments**

The only other environmental planning instruments that apply, according to their terms, to land within the Nords Wharf site are all State environmental planning policies, except the following—

- (a) *State Environmental Planning Policy No 1—Development Standards*,
- (b) *State Environmental Planning Policy No 71—Coastal Protection*.

## **Division 2 Provisions applying to development in Nords Wharf site**

### **90 Land use zones**

For the purposes of this Part, land within the Nords Wharf site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being in that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone E1 National Parks and Nature Reserves,
- (c) Zone E2 Environmental Conservation.

### **91 Objectives of land use zones to be taken into account**

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.

### **92 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows—
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment of the Wallarah Peninsula,

- (d) to encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
  - (e) to ensure that any non-residential development is compatible with the amenity of the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—
- home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—
- bed and breakfast accommodation; boarding houses; building identification signs; business identification signs; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; environmental protection works; group homes; health consulting rooms; home businesses; home industries; information and education facilities; neighbourhood shops; recreation areas; recreation facilities (outdoor); respite day care centres; roads; semi-detached dwellings; shop top housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

### **93 Zone E1 National Parks and Nature Reserves**

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows—
- (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974*,
  - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
  - (c) 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) Development for any of the following purposes is permitted without consent on land within Zone E1 National Parks and Nature Reserves—
- uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves—
- nil.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or



(3).

#### **94 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
  - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without consent on land within Zone E2 Environmental Conservation—
  - environmental protection works.
- (3) Development for any of the following purposes is permitted with consent on land within Zone E2 Environmental Conservation—
  - environmental facilities; roads.
- (4) Except as otherwise provided by this Part, development for the following purposes is prohibited on land within Zone E2 Environmental Conservation—
  - business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

#### **95 Subdivision—consent requirements**

Land within the Nords Wharf site may be subdivided, but only with development consent.

#### **96 Height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to ensure that development has an appropriate scale and height in relation to its visual, landscape and heritage setting,
  - (b) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.
- (2) The height of a building on land within the Nords Wharf site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

#### **97 Neighbourhood shops in Zone R2 Low Density Residential**

- (1) The objective of this clause is to set a maximum retail floor area for neighbourhood shops in Zone R2 Low Density Residential.

- (2) The retail floor area of a neighbourhood shop must not exceed 125 square metres.

**98 Exceptions to development standards**

- (1) The objectives of this clause are—
- (a) to provide an appropriate degree of flexibility in applying certain standards to particular development, and
  - (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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5), (6) (Repealed)
- (7) 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.

## **99 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 within the Nords Wharf site 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 within the Nords Wharf site 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.

#### **100 (Repealed)**

#### **101 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Nords Wharf site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity and gas,
  - (c) the disposal and management of sewage.

#### **102 Development control plan**

- (1) The objective of this clause is to ensure that development on land within the Nords Wharf site 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 within the Nords Wharf site unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—

- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including 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 any of the following development—
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if 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 environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

### **103 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Part 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 \(Transport and Infrastructure\) 2021](#), Chapter 2.

- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

#### **104 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 to which this Part applies, 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 Land Reservation Acquisition Map**

**Authority of the State**

Zone E1 National Parks and Nature Reserves and marked “National Parks and Nature Reserves”

Minister administering the [National Parks and Wildlife Act 1974](#)

**Note—**

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to enable the designation of the acquiring authority under this Part. 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 and Infrastructure (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

- (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.

#### **105 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Nords Wharf site to be

carried out in accordance with this Part 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 relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, 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 10 Minmi-Newcastle Link Road site**

### **Division 1 Preliminary**

#### **106 Application of Part**

- (1) This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **Minmi-Newcastle Link Road site**.
- (2) No other provision of this Plan (other than clauses 4 and 6) applies to land within the Minmi-Newcastle Link Road site.

#### **107 Interpretation**

- (1) In this Part—

**Council** means the Council of the City of Lake Macquarie.



**Height of Buildings Map** means the [Lake Macquarie Local Environmental Plan 2004—Minmi-Newcastle—Height of Buildings Map](#).

**Land Application Map** means the [Lake Macquarie Local Environmental Plan 2004—Minmi-Newcastle—Land Application Map](#).

**Land Reservation Acquisition Map** means the [Lake Macquarie Local Environmental Plan 2004—Minmi-Newcastle—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [Lake Macquarie Local Environmental Plan 2004—Minmi-Newcastle—Land Zoning Map](#).

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) unless it is otherwise defined in this Part.

### **108 Maps**

- (1) A reference in this Part to a named map adopted by this Part 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 Part to any such 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 Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

### **109 Relationship with other environmental planning instruments**

The only other environmental planning instruments that apply, according to their terms, to land within the Minmi-Newcastle Link Road site are all State environmental planning policies, except [State Environmental Planning Policy No 1—Development Standards](#).

### **110 Savings provision relating to development applications**

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

## **Division 2 Provisions applying to development in Minmi-Newcastle Link Road site**

### **111 Land use zones**

For the purposes of this Part, land within the Minmi-Newcastle Link Road site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being in that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone B2 Local Centre,
- (c) Zone E1 National Parks and Nature Reserves,
- (d) Zone E2 Environmental Conservation.

### **112 Objectives of land use zones to be taken into account**

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.

### **113 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows—
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—
  - environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—
  - bed and breakfast accommodation; boarding houses; 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; information and education facilities; neighbourhood shops; places of public worship; recreation areas; respite day care centres; roads; secondary dwellings; semi-detached dwellings; seniors housing; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

#### **114 Zone B2 Local Centre**

- (1) The objectives of Zone B2 Local Centre are as follows—

- (a) 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,
- (b) to encourage employment opportunities in accessible locations,
- (c) to maximise public transport patronage and encourage walking and cycling,
- (d) to provide for residential development that maintains active retail and business street frontages in order to contribute to a safe, attractive, friendly, accessible and efficient pedestrian environment.

- (2) Development for any of the following purposes is permitted without consent on land within Zone B2 Local Centre—

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B2 Local Centre—

amusement centres; boarding houses; car parks; child care centres; commercial premises; community facilities; educational establishments; entertainment facilities; environmental facilities; function centres; health consulting rooms; home industries; home occupations; home occupations (sex services); hostels; information and education facilities; medical centres; mortuaries; passenger transport facilities; places of public worship; public administration buildings; recreation areas; recreation facilities (indoor); registered clubs; respite day care centres; restricted premises; roads; service stations; sex services premises; shop top housing; signage; tourist and visitor accommodation; vehicle repair stations; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B2 Local Centre unless it is permitted by subclause (2) or (3).

#### **115 Zone E1 National Parks and Nature Reserves**

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows—

- (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974*,
  - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
  - (c) 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) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves—
- uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves—
- nil.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

#### **116 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without consent on land within Zone E2 Environmental Conservation—
- environmental protection works.
- (3) Development for any of the following purposes is permitted with consent on land within Zone E2 Environmental Conservation—
- environmental facilities; roads; water recreation structures.
- (4) Except as otherwise provided by this Part, development for the following purposes is prohibited on land within Zone E2 Environmental Conservation—
- 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 subclause (2) or (3).

### 117 Subdivision—consent requirements

Land to which this Part 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 Part 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**.

### 118 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 Part 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.

### 119 Height of buildings

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

- (a) to establish a maximum height limit for buildings under design,
- (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
- (c) to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.

(2) The height of a building on land within the Minmi–Newcastle Link Road site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

### 120 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.

### 121 Exceptions to development standards

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

- (a) to provide an appropriate degree of flexibility in applying certain 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 Part 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)
- (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 123.

## 122 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.

If land is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to enable the designation of the acquiring authority under this Part. 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 and Infrastructure (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

- (2) The authority of the State that will be the relevant authority to acquire land to which this clause applies, 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 [Land Reservation Acquisition Map](#)

### Authority of the State

Zone E1 National Parks and Nature Reserves and marked “National Park”

Minister administering the [National Parks and Wildlife Act 1974](#)

### Note—

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to enable the designation of the acquiring authority under this Part. 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 and Infrastructure (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

- (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.

## 123 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 Part, the accommodation that is provided to

guests must consist of no more than 4 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 Part, the carrying on of the business must not involve the use of more than 30 square metres of floor area.
- (3) **Home industries** If development for the purposes of a home industry is permitted under this Part, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.
- (4) **Farm stay accommodation** If development for the purposes of farm stay accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 3 bedrooms.
- (5) **Kiosks** If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 20 square metres.
- (6) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 150 square metres.
- (7) **Secondary dwellings** If development for the purposes of a secondary dwelling is permitted under this Part, 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) 20% of the total floor area of the principal dwelling.

#### **124 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.

- (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 E2 Environmental Conservation.

**125 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 124 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.

**126 (Repealed)**

**127 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Minmi-Newcastle Link Road site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity and gas,
  - (c) the disposal and management of sewage.

**128 Development control plan**

- (1) The objective of this clause is to ensure that development on land within the Minmi-Newcastle Link Road site 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 within the Minmi-Newcastle Link Road site unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—
  - (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including 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 any of the following development—
  - (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if 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 environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development

would be consistent with the objectives of the zone in which the land is situated.

### **129 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Part 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 (Transport and Infrastructure) 2021*, Chapter 2.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **130 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Minmi–Newcastle Link Road site to be carried out in accordance with this Part 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 relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, 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).

### 131 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 land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
  - (a) is compatible with the flood hazard of the land, and
  - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
  - (c) incorporates appropriate measures to manage risk to life from flood, and
  - (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
  - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023, 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.

## Part 11 South Wallarah Peninsula site

### Division 1 Preliminary

#### 132 Application of Part

- (1) This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **South Wallarah Peninsula site**.
- (2) No other provisions of this plan (other than clauses 4 and 6) apply to land within

South Wallarah Peninsula site.

### 133 Interpretation

(1) In this Part—

**Additional Permitted Uses Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Additional Permitted Uses Map](#).

**Council** means the Council of the City of Lake Macquarie.

**Height of Buildings Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Height of Buildings Map](#).

**heritage conservation area** means an area of land shown on the [Heritage Map](#) as a heritage conservation area or as a place of Aboriginal heritage significance.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object shown on the [Heritage Map](#) as a heritage item or described in the table to clause 150.

**Heritage Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Heritage Map](#).

**Land Application Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Land Application Map](#).

**Land Reservation Acquisition Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [Lake Macquarie Local Environmental Plan 2004—South Wallarah Peninsula—Land Zoning Map](#).

(2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) unless it is otherwise defined in this Part.

### 134 Maps

- (1) A reference in this Part to a named map adopted by this Part 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 Part to any such 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 Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

### **135 Application of SEPPs**

- (1) This Part is subject to the provisions of any State environmental planning policy that prevails over this Part as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the South Wallarah Peninsula site—

*State Environmental Planning Policy No 1—Development Standards*

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

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

*State Environmental Planning Policy No 71—Coastal Protection*

## **Division 2 Provisions relating to development in South Wallarah Peninsula site**

### **136 Land use zones**

For the purposes of this Part, land within the South Wallarah Peninsula site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone SP2 Infrastructure,
- (c) Zone E1 National Parks and Nature Reserves,
- (d) Zone E2 Environmental Conservation.

### **137 Objectives of land use zones to be taken into account**

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.

### **138 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows—

- (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment of the Wallarah Peninsula,
  - (d) to encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
  - (e) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled to preserve the quality of life for residents in the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—  
environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—  
bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; dwelling houses; environmental facilities; exhibition villages; group homes; hospitals; information and education facilities; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); respite day care centres; roads; semi-detached dwellings; shop top housing; signage.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

### **139 Zone SP2 Infrastructure**

- (1) The objectives of Zone SP2 Infrastructure are as follows—
- (a) to provide for infrastructure and related uses,
  - (b) to prevent development that is not compatible with, or that may detract from, the provision of infrastructure.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone SP2 Infrastructure—  
Roads.



- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure—

the purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

#### **140 Zone E1 National Parks and Nature Reserves**

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows—

- (a) 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,
- (b) to enable uses authorised under the [National Parks and Wildlife Act 1974](#),
- (c) 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) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves—

uses authorised under the [National Parks and Wildlife Act 1974](#).

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves—

nil.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

#### **141 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—

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

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development

consent on land within Zone E2 Environmental Conservation—  
environmental facilities; roads; signage.

- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation—  
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

#### **142 Additional permitted uses**

- (1) Despite any other provision of this Part, development for the following purposes may be carried out on the following land with development consent—
- (a) bed and breakfast accommodation, dwelling houses, home-based child care, home businesses, home industries and information and education facilities—on land within 20 metres of the following buildings—
- (i) “Wallarrah House”, 1a Keene Street, Catherine Hill Bay, being part of Lot 103, DP 1129872, as shown hatched and labelled “1” on the [Additional Permitted Uses Map](#),
- (ii) “Jetty Master’s Cottage”, part of Lot 103, DP 1129872 and part of Lot 1, DP 1151628, as shown hatched and labelled “2” on the [Additional Permitted Uses Map](#),
- (b) recreation areas—on land known as the “Village Park” and the “Coastal Walkway”, as shown hatched and labelled “3” and “4”, respectively, on the [Additional Permitted Uses Map](#).
- (2) Despite any other provision of this Part, development for the purpose of home occupations may be carried out without development consent on land within 20 metres of the following buildings—
- (a) “Wallarrah House”, 1a Keene Street, Catherine Hill Bay, being part of Lot 103, DP 1129872, as shown hatched and labelled “1” on the [Additional Permitted Uses Map](#),
- (b) “Jetty Master’s Cottage”, part of Lot 103, DP 1129872 and part of Lot 1, DP 1151628, as shown hatched and labelled “2” on the [Additional Permitted Uses Map](#).

#### **143 Subdivision—consent requirements**

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

- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following—
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

#### **144 Height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to ensure that development has an appropriate scale and height in relation to its landscape setting,
  - (b) to ensure that development in areas within close proximity to Catherine Hill Bay has an appropriate scale and height in relation to its heritage setting,
  - (c) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.
- (2) The height of a building on any land within the South Wallarah Peninsula site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

#### **145 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 to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)
- (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 146.

**146 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the South Wallarah Peninsula site must not involve the

provision of more than 3 bedrooms for accommodation for guests.

- (2) **Home businesses** Development for the purposes of a home business on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the business.
- (3) **Home industries** Development for the purposes of a home industry on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the home industry.
- (4) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the South Wallarah Peninsula site must not result in a combined retail floor area of all neighbourhood shops on that land of more than 750 square metres.

#### **147 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 within the South Wallarah Peninsula site 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 effect of coastal processes and coastal hazards and potential impacts,  
including sea level rise—
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on  
the coastal catchment.
- (3) Development consent must not be granted to development on land within the South  
Wallarah Peninsula site 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.

#### **148 Architectural roof features**

- (1) Development that includes an architectural roof feature that exceeds, or causes a  
building to exceed, the height limits set by clause 144 may be carried out, but only  
with development consent.
- (2) 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.

#### **149 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 150 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 E2 Environmental Conservation.

## **150 Heritage conservation**

(1) **Requirement for consent** Development consent is required for any of the following—

(a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,

(b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,

(c) altering a heritage item that is a building by making structural changes to its interior,

(d) disturbing or excavating an archaeological site while knowing, or having

reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,

- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(2) **When consent is not required** However, consent under this clause is not required if—

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
  - (i) is of a minor nature, or is for the maintenance of the heritage item, or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development—
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving and repairing monuments or grave markers, and
  - (ii) would not cause a disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(3) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (4) or a heritage conservation management plan is submitted under subclause (5).

(4) **Heritage impact assessment** The consent authority may, before granting consent to any development on land—

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

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

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

### Environmental heritage table

Suburb	Item name	Address	Property description	Significance	Item number
Catherine Hill Bay	Wallarah House	1a Keene Street	Part of Lots 102 and 103, DP 1129872; Part of Lot 1, DP 1151628	Local	1
Catherine Hill Bay	Catherine Hill Bay Colliery Railway		Part of Lots 101, 103 and 104, DP 1129872; Part of Lot 1, DP 1151628	Local	2
Catherine Hill Bay	Conservation Area		Lot 1, DP 1141989; Lots 101-103, DP 1129872; Lot 1, DP 1151628; Lot 1, Section K, DP 163; Lot 2, Section I, DP 163; Lot 204, DP 1164883	Local	3

### 151 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the South Wallarah Peninsula site unless the consent authority 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.

- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following—
- (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage.

### **152 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Chapter 2.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **153 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 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).

<b>Type of land shown on Map</b>	<b>Authority of the State</b>
Zone SP2 Infrastructure	Hunter Water Corporation
Zone E1 National Parks and Nature Reserves	Minister administering the <a href="#">National Parks and Wildlife Act 1974</a>

**Note—**

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning and Infrastructure is required to take action to

enable the designation of the acquiring authority under this clause. 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 and Infrastructure (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

- (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.

#### **154 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 Part or with a development consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply—
  - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, 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).

#### **155 Mining, petroleum production and extractive industries**

This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Resources and Energy) 2021*, Chapter 2.

### **156 Development control plan**

- (1) The objective of this clause is to ensure that development on land within Zone R2 Low Density Residential 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 within Zone R2 Low Density Residential unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (i) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to any of the following development—
  - (a) a subdivision 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 environmental protection purpose,
  - (b) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (c) proposed development on land that is of a minor nature only, if the consent

authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

(5) Development consent must not be granted for development on the following land unless the consent authority is satisfied that the development meets the requirements of the *Lake Macquarie Development Control Plan No 1*, adopted by the Council on 23 November 2009, or a development control plan is prepared for the land in accordance with this clause—

(a) Lot 1, Section K, DP 163,

(b) Lot 2, Section I, DP 163.

### **157 Dwelling house or secondary dwelling affected by natural disaster**

(1) The objective of this clause is to enable the repair or replacement of lawfully erected dwelling houses and secondary dwellings that have been damaged or destroyed by a natural disaster.

(2) This clause applies to land in Zone 2(1) within the South Wallarah Peninsula site.

(3) Despite the other provisions of this Plan, development consent may be granted to development on land to which this clause applies to enable a dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster to be repaired or replaced if—

(a) the dwelling house or secondary dwelling was lawfully erected, and

(b) the development application seeking the development consent is made to the consent authority no later than 5 years after the day on which the natural disaster caused the damage or destruction.

## **Schedule 1 Exempt development**

(Clause 8)

### **Note 1—**

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) specifies exempt development under that Policy.

The Policy has State-wide application. Schedule 1 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.

### **1 What is exempt development?**

(1) Development is exempt development if—

- (a) it is described in Column 1 of the Table to this Schedule, and
  - (b) it is carried out within a zone specified for the development in Column 2 of that Table, and
  - (c) it complies with the criteria specified for the development in Column 2 of that Table.
- (2) However, development is not exempt development if—
- (a) it is prohibited by this plan, or
  - (b) it is not of minimal environmental impact, or
  - (c) it is carried out on land described in clause 2 of this Schedule, or
  - (d) it does not comply with any of the relevant general criteria for exempt development specified in clause 3 of this Schedule.
- (3) In measuring heights and maximum areas specified in the Table to this Schedule—
- (a) height is measured from natural ground level, and
  - (b) a maximum area for a structure is the total of all areas occupied by the type of structure, unless otherwise stated.

## **2 Land on which there is no exempt development**

- (1) Development is not exempt development if it is carried out on land that—
- (a) is critical habitat (within the meaning of the *Threatened Species Conservation Act 1995*), or
  - (b) is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), or
  - (c) is land below the 1 in 100 year flood level if it involves the erection or use of a structure with a habitable room, or land below the 1 in 20 year flood level if it involves the erection or use of a structure with rooms none of which is habitable, except where otherwise indicated in the Table to this Schedule, or
  - (d) is land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, or
  - (e) is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
  - (f) is identified as an Aboriginal place or known Aboriginal relic on a register kept by the National Parks and Wildlife Service, or is dedicated or reserved under the *National Parks and Wildlife Act 1974*, or



- (g) (Repealed)
- (h) is land with a slope greater than 15 degrees, or
- (i) is identified as potential acid sulfate soil Class 1 or 2 on the Acid Sulfate Soil Planning Maps dated December 1997 and kept by the Council, except where the proposed development does not involve the movement of soils on the site, or
- (j) is identified as potential acid sulfate soil Class 3 on the Acid Sulfate Soil Planning Maps dated December 1997 and kept by the Council, where any proposed excavation involved in the development is greater than 500mm, or
- (k) is identified as potential acid sulfate soil Class 4 on the Acid Sulfate Soil Planning Maps dated December 1997 and kept by the Council, where any proposed excavation involved in the development is greater than 1.5 metres, or
- (l) is within a mine subsidence area, unless the proposed development has been formally approved, prior to commencement, by the relevant Mine Subsidence Board, or
- (m) is land on which a tree or native vegetation exists, where the proposed development involves clearing for which consent is required by clause 34, or
- (n) is the site of a heritage item or an item proposed by a draft environmental planning instrument to be a heritage item, or
- (o) is subject to an order under Division 2A of Part 6 of the *Environmental Planning and Assessment Act 1979* or Division 1 of Part 2 of Chapter 7 of the *Local Government Act 1993*, other than an order to demolish, that has not been complied with, or
- (p) is between a foreshore building line and the water body to which that line relates, or
- (q) is within 40 metres of a watercourse, river, stream, creek or lake—where excavation of the land (not including footings for minor structures) is proposed, or
- (r) is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*.

### **3 Criteria that must be satisfied by all exempt development**

Development is exempt development only if it complies with all of the following general criteria relevant to the form of development—

- (a) all structures comply with the *Building Code of Australia*, including the standards identified in that code,

- (b) all structures and activities comply with the Council's adopted building lines and setbacks, unless otherwise specified in the Table to this Schedule,
- (c) the development complies with all relevant development control plans and policies approved by the Council,
- (d) no existing condition of development consent or building approval affecting a site is contravened or compromised,
- (e) no structure is built over a sewer main, easement or natural watercourse and adequate clearance is provided to all sewer junction shafts, surcharge gullies, hot water service overflow pipes, and waste outlet pipes unless prior written agreement has been obtained from the Council or the local water and sewerage authority or supplier, as the case may require,
- (f) the development does not require the installation or alteration of a sewage management facility,
- (g) all structures have clearance from power lines in accordance with the relevant electricity authority or supplier,
- (h) all structures are built with new materials or second-hand materials which retain the structural adequacy and integrity of the material when new,
- (i) all structures are built with materials which match the design and appearance of any existing buildings on the site of the proposed development or in the immediate vicinity,
- (j) no structure or activity obstructs vehicular or human access,
- (k) no structure is located within the curtilage of a swimming pool which compromises the effectiveness of the swimming pool safety barrier or fence,
- (l) all structures and activities comply with relevant legislation affecting their use and with statutory and other requirements of the Council and any other relevant public authorities.

**Table**

**Column 1**

**Column 2**

**Erection (or installation) and use, or carrying out, of the following—**

**Circumstances where exempt**

Amusement devices (being a small amusement device as defined in the <a href="#">Local Government (General) Regulation 2005</a> ) (eg dodgem cars, giant slides, jumping castles, merry-go-rounds etc)	<p>Exempt only in Zones 3 (1), 3 (2), B4, 6 (1) and 6 (2).</p> <p>Must be installed and used for one day or weekend events only.</p> <p>Must be erected on level ground of sufficient bearing capacity to support the device.</p> <p>Must be registered under the <a href="#">Occupational Health and Safety Regulation 2001</a>.</p> <p>Must be erected in accordance with all the conditions set out in its certificate of registration.</p> <p>Must have a current logbook within the meaning of the <a href="#">Occupational Health and Safety Regulation 2001</a>.</p> <p>Must be subject to a contract of insurance or indemnity to an unlimited amount or no less than \$10,000,000 for each person who would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability.</p> <p>Must meet the operational requirements of the WorkCover Authority.</p>
Arcade amusement devices (eg pinball machines, virtual reality games etc)	<p>Exempt only in Zones 3 (1), 3 (2), B4 and 6 (2).</p> <p>Must be located wholly within the subject premises.</p> <p>Maximum 5 devices installed in total.</p>
Awnings over trade waste disposal points	<p>Exempt only in Zones 4 (1), 4 (2) and 9.</p> <p>Maximum size 30m<sup>2</sup>.</p> <p>Maximum height 2.7m.</p> <p>Must facilitate maintenance of the trade waste device and enable all weather use.</p> <p>Must be constructed of materials that match or complement the design and appearance of existing buildings.</p> <p>Must not be located within front building setback.</p>
Charity bins or clothing and recycling bins	<p>Exempt only in Zones 3 (1), 3 (2), B4, 4 (1), 4 (2) and 4 (3).</p> <p>Must not result in more than 3 bins in any one location.</p> <p>Must be located wholly on private property and not in a public place.</p>

Demolition	<p>Exempt in all Zones.</p> <p>Demolition only of development that would be exempt development under this plan if it were being constructed or installed.</p> <p>Council must have issued an order to demolish under Division 2A of Part 6 of the <i>Environmental Planning and Assessment Act 1979</i> or section 124 of the <i>Local Government Act 1993</i>.</p> <p>Demolition must be carried out in accordance with Australian Standard AS 2601—2001, <i>Demolition of structures</i>.</p>
Earthworks (rural)	<p>Exempt only in Zone 1 (1).</p> <p>Must not be for domestic purposes.</p> <p>Must constitute one or more of the following—</p> <ul style="list-style-type: none"><li>(a) levelling of land to a maximum of 300mm,</li><li>(b) maintenance of drainage works,</li><li>(c) backfilling of dams with not more than 5 megalitres storage capacity,</li><li>(d) desilting of dams,</li><li>(e) maintenance of existing access roads within property boundaries.</li></ul>
Fuel tanks—used in conjunction with agricultural activities or home business for which consent has been granted	<p>Exempt only in Zones 1 (1), 1 (2), 7 (2), 7 (3), 7 (5) and 9.</p> <p>Maximum size 5,000 litres.</p> <p>Must be located wholly within the boundaries of the property.</p> <p>Must be bunded with capacity to contain at least 125% of the capacity of the fuel tank.</p> <p>Must be constructed of prefabricated metal, be free-standing and not rely on other structures for support.</p> <p>Must be operated and maintained in accordance with Australian Standard AS 1940—2004, <i>The storage and handling of flammable and combustible liquids</i>.</p> <p>Must not be erected within 30m of a creek or boundary to the street or within 5m of a side or rear boundary.</p> <p>Minimum setback 20m from adjoining dwellings.</p>
Hail protection	<p>Exempt only in Zones 1 (1) and 1 (2).</p> <p>Must be ancillary to agricultural use and consisting of light construction (eg poles, wire and mesh).</p>

Retaining walls	<p>Exempt in all Zones.</p> <p>Must not be for domestic purposes.</p> <p>Maximum height 600mm (including the height of any batters) above existing ground level.</p> <p>Must have adequate drainage lines behind it.</p> <p>Must not redirect the flow of surface water onto an adjoining property.</p> <p>Must cause surface water to be disposed of without causing a nuisance to adjoining owners.</p> <p>Timber walls must comply with the following Australian Standards—</p> <p>(a) AS 1720.2—2006, <i>Timber structures—Timber properties</i>,</p> <p>(b) AS 1720.4—2006, <i>Timber structures—Fire resistance for structural adequacy of timber members</i>.</p>
Shade structures (bird nets and the like)	<p>Exempt only in Zone 1 (1).</p> <p>Must be ancillary to agriculture.</p>

	<p>Exempt in all Zones (except where otherwise specified below for particular sign types).</p> <p>General criteria—</p> <p>(a) maximum area 2m<sup>2</sup> in Zone 4 (1), 4 (2) or 4 (3), except as otherwise specified elsewhere in this Table in relation to particular sign types, and</p> <p>(b) maximum area 1m<sup>2</sup> in all other Zones, except as otherwise specified elsewhere in this Table in relation to particular sign types, and</p> <p>(c) must not cover mechanical ventilation inlet or outlet vents, and</p> <p>(d) over a public road, must be at least 600mm from kerb or roadway edge, and</p> <p>(e) must not be illuminated or use flashing lights or similar devices for illumination, and</p> <p>(f) must not be mounted on vehicles, trailers, or shipping containers that stand continuously for the purpose of advertising on either public or private land, and</p> <p>(g) on public land, must not be mounted on trees or telegraph poles, and</p> <p>(h) must be located so as not to cause or create a traffic hazard including obscuring views of vehicles, pedestrians, or potentially hazardous road features, and</p> <p>(i) must not emit excessive glare or cause excessive reflection, and</p> <p>(j) must not resemble traffic warning signs, and</p> <p>(k) if located on bush fire prone land, must be of non-combustible material.</p>
Signs (see below for additional requirements for particular sign types)	
<b>Note—</b>	
The replacement of existing building identification signs and business identification signs (within the meaning of the standard instrument prescribed by the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> ) is exempt development under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> .	

Signs used for display of the following—

(a) Business identification signs in residential areas	<p>Only exempt in Zones 2 (1) and 2 (2).</p> <p>Must satisfy general criteria above.</p> <p>Maximum area 1m<sup>2</sup>.</p> <p>Must be located and erected on the site to which they relate.</p> <p>Maximum one sign per street frontage.</p> <p>If over a public road, must be erected at a height no less than 2.6m above ground level.</p>
--	--

- Only exempt in Zones 3 (1) and 3 (2).  
Suspended under awning signs—
- (a) must satisfy general criteria above, and
  - (b) must be securely fixed by metal supports, and
  - (c) must not affect the structural integrity of the awning or building, and
  - (d) must be located and erected on the site to which they relate, and
  - (e) maximum one sign per street frontage, and
  - (f) if over a public road, must be erected at a height no less than 2.6m above ground level, and
  - (g) maximum area 2.5m<sup>2</sup>.
- (b) Business identification signs in commercial areas

Vertical or horizontal projecting wall signs—

- (a) must satisfy general criteria above, and
- (b) must be securely fixed by metal supports, and
- (c) must not affect the structural integrity of the awning or building, and
- (d) must be located and erected on the site to which they relate, and
- (e) maximum one sign per street frontage, and
- (f) if over a public road, must be erected at a height no less than 2.6m above ground level, and
- (g) maximum area 2.5m<sup>2</sup>.

Flush wall signs—

- (a) must satisfy general criteria above, and
- (b) must be securely fixed, and
- (c) must be located and erected on the site to which they relate, and
- (d) maximum one sign per street frontage, and
- (e) maximum area 2.5m<sup>2</sup>.

Top hamper signs—

- (a) must satisfy general criteria above, and
- (b) must be securely fixed, and
- (c) must be located and erected on the site to which they relate, and
- (d) maximum one sign per street frontage, and
- (e) if over a public road, must be erected at a height no less than 2.6m above ground level, and
- (f) maximum area 2.5m<sup>2</sup>.

Only exempt in Zones 4 (1), 4 (2), 4 (3) and 9.

Must satisfy general criteria above.

Must be securely fixed by metal supports.

If located over a public road, must be erected at a height of no less than 2.6m above ground level.

Must be located and erected on the site to which they relate.

Maximum one sign per street frontage.

Maximum area 2.5m<sup>2</sup>.

(c) Business identification signs in industrial areas



- (d) Real estate signs (advertising premises or land for sale or rent) in rural, residential and environmental protection areas
- Only exempt in Zones 1 (1), 1 (2), 2 (1), 7 (1), 7 (2), 7 (3), 7 (4) and 7 (5).  
Must satisfy general criteria above.  
Maximum area 2.5m<sup>2</sup>.  
Must be freestanding or attached to an existing approved structure eg fence, dwelling house or garage.  
Must be located and erected on the site to which they relate.  
Maximum 2 signs per street frontage.
- (e) Real estate signs (advertising premises or land for sale or rent) in residential (urban living) areas
- Only exempt in Zone 2 (2).  
Must satisfy general criteria above.  
Maximum area 4.5m<sup>2</sup>.  
Must be freestanding or attached to an existing approved structure eg fence.  
Must be located and erected on the site to which they relate.  
Must not detract from the amenity of adjoining and adjacent land owners.  
Maximum 2 signs per street frontage.
- (e1) Real estate signs (advertising premises or land for "open house" or "auction today") in all areas
- Exempt in all zones.  
Maximum area 1.2m<sup>2</sup>.  
Must be erected only on the day the premises or land is open for open house or on the auction day.  
Must be removed immediately after the open house has finished or the auction has been completed.  
Maximum one sign at street frontage.  
Maximum of one sign at each of the nearest 2 intersections.  
Must not interfere with traffic visibility or pedestrian access.  
Must not be attached to balloons or similar items.  
Must not be illuminated or use flashing lights or similar devices for illumination.
- (f) Real estate signs (advertising approved premises or land for sale or rent) in commercial, industrial, infrastructure and tourist areas
- Only exempt in Zones 3 (1), 3 (2), 4 (1), 4 (2), 4 (3), 5 and 6 (2).  
Must satisfy general criteria above.  
Maximum area 10m<sup>2</sup>.  
Must have structural certification.  
Must be located and erected on the site to which they relate.  
Maximum 2 signs per street frontage.  
Must not be displayed after 100% of the premises or land is sold or leased.

<p>(g) Directional real estate signs (advertising approved subdivisions) in rural, residential, commercial, industrial, infrastructure, tourist, natural resource and investigation areas</p>	<p>Only exempt in Zones 1 (1), 1 (2), 2 (1), 2 (2), 3 (1), 3 (2), 4 (1), 4 (2), 4 (3), 5, 6 (2), 9 and 10.</p> <p>Must satisfy general criteria above.</p> <p>In Zones 1 (1), 1 (2), 2 (1) and 2 (2), maximum area 4.5m<sup>2</sup>.</p> <p>In Zones 3 (1), 3 (2), 4 (1), 4 (2), 4 (3), 5, 6 (2), 9 and 10, maximum area 6m<sup>2</sup>.</p> <p>Two sign boards joined together (eg on a corner site) are treated as 2 separate signs.</p> <p>Must be freestanding or attached to an existing approved structure eg fence, dwelling house or garage.</p> <p>Must be located within a 3km radius of the approved subdivisions to which the signs relate.</p> <p>Maximum of 4 signs within the 3km radius.</p> <p>If the nearest major arterial road or freeway is located outside the 3km radius, 2 additional signs are permitted outside the 3km radius to allow directions to be provided to the premises or land.</p> <p>Must not be displayed after 100% of land is sold.</p> <p>Must relate to approved subdivisions as a whole, not to individual lots.</p>
<p>Silos</p>	<p>Only exempt in Zone 1 (1).</p> <p>Maximum capacity 120 tonnes.</p> <p>Maximum height 9m.</p> <p>Must be constructed of prefabricated metal.</p> <p>Must be freestanding and not rely on other structures for support.</p> <p>Must be erected in accordance with the manufacturer's specifications or an engineer's certification.</p> <p>Minimum setback to property boundary must be equivalent to height of silo plus 1m.</p> <p>Minimum front setback 30m.</p>
<p>Temporary structures—tents used for short term accommodation</p>	<p>Only exempt in Zones 1 (1), 1 (2), 2 (1), 2 (2), 6 (2), 7 (1), 7 (2), 7 (3), 7 (4), 7 (5) and 10.</p> <p>Must be erected on private land (excluding caravan parks, camping grounds and manufactured home estates the operation of which is governed by the <a href="#">Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</a>).</p> <p>Must be erected in accordance with the manufacturer's specifications and requirements.</p> <p>Must not be erected for a period exceeding 21 consecutive days.</p> <p>Stormwater runoff must not cause a nuisance to adjoining properties.</p>

Siting of tents must not create any noise nuisance arising from the use of the tent.  
Must be setback a minimum 1.5m from all boundaries.

## Schedule 2 Subdivision standards

(Clause 24)

### Part 1 Preliminary

#### 1 Definitions

(1) In this Schedule—

**building area** means the area of the site capable of supporting development. It does not include—

- (a) front, side and rear setbacks, or
- (b) the access handle of a battle-axe lot.

**community association, community development lot, community parcel, community property** and **community scheme** have the same meaning as they have in the [Community Land Development Act 1989](#).

**irregular lot** means a lot that is not a standard lot.

**neighbourhood scheme** has the same meaning as it has in the [Community Land Development Act 1989](#).

**standard lot** means a rectangular lot (and includes a rectangular corner lot).

**width** means the distance of the perpendicular line between the side boundaries, as measured at the front building setback.

- (2) In this Schedule, the minimum area specified for battle-axe lots excludes the battle-axe access handle.
- (3) The subdivision standards in this Schedule do not apply to strata subdivision.
- (4) A heading to a clause in this Schedule is taken to be part of this Schedule.

### Part 2 Zone 1 (1) Rural (Production)

#### 2 All types of subdivision

Minimum area—20ha.

## **Part 3 Zone 1 (2) Rural (Living)**

### **3 Subdivisions not for purpose of community, precinct or neighbourhood scheme**

Minimum area—1ha.

### **4 Subdivisions for purpose of community scheme**

(1) Community parcel—

minimum area—5ha.

(2) Community development lots—

(a) minimum area—1,000m<sup>2</sup>,

(b) maximum area—1,500m<sup>2</sup>,

(c) maximum density (excluding community property)—1.6 lots per ha,

(d) must be clustered together, or otherwise established, for the purpose of retaining a significant area of unbuilt open space to preserve the natural quality of the land and the rural character of the area. All remaining land must be community property under the control of the community association,

(e) must not have frontage to a public road unless it can be demonstrated that the subdivision is consistent with the existing subdivision pattern, and the subdivision will preserve the natural and scenic quality of the land.

## **Part 4 Zone 2 (1) Residential**

### **Note—**

Also see, in particular, clauses 24, 27 and 28A.

### **5 Any type of subdivision of approved dual occupancy**

Minimum area—250m<sup>2</sup>.

### **6 Any type of subdivision of approved small lot housing**

(1) Must create at least 3 small lot housing lots.

(2) Each lot must—

(a) be not less than 300m<sup>2</sup>, but not more than 450m<sup>2</sup>, in area,

(b) have direct frontage to a public road, or an access way established as part of a community scheme.

**7 Subdivisions (other than of approved dual occupancy or approved small lot housing)**

(1) Standard lot—

(a) standard corner lot—

- (i) minimum area—600m<sup>2</sup>,
- (ii) minimum width—18m,

(b) other standard lot—

- (i) minimum area—450m<sup>2</sup>,
- (ii) minimum width—14m.

(2) Irregular lot—

(a) battle-axe lot—

- (i) minimum area—600m<sup>2</sup>,
- (ii) must have a rectangular building area with a minimum area of 250m<sup>2</sup> and a minimum width of 12m,
- (iii) minimum width of battle-axe access handle servicing 1 battle-axe lot—4m, or 2 battle-axe lots—5m,
- (iv) maximum number of battle-axe lots sharing a single access handle—2,

(b) irregular corner lot—

- (i) minimum area—600m<sup>2</sup>,
- (ii) minimum width—18m,

(c) other irregular lot—

- (i) minimum area—450m<sup>2</sup>,
- (ii) must have a rectangular building area with a minimum area of 250m<sup>2</sup> and a minimum width of 12m.

**8 Subdivisions (other than of approved dual occupancy or approved small lot housing) that create 10 or more lots**

At least 10%, but no more than 50%, of lots must be small lot housing lots.

**Part 5 Zone 2 (2) Residential (Urban Living)**

**Note—**

Also see, in particular, clauses 24, 27 and 28A.

**9 Any type of subdivision of approved small lot housing**

- (1) Must create at least 4 small lot housing lots.
- (2) Each lot must—
  - (a) be not less than 200m<sup>2</sup>, but not more than 450m<sup>2</sup>, in area,
  - (b) have direct frontage to a public road, or an access way established as part of a community scheme.

**10 Subdivisions (other than of approved small lot housing)**

- (1) Standard lot—
  - (a) standard corner lot—
    - (i) minimum area—1,200m<sup>2</sup>,
    - (ii) must have a rectangular building area with a minimum area of 900m<sup>2</sup> and a minimum width of 25m,
  - (b) other standard lot—
    - (i) minimum area—900m<sup>2</sup>,
    - (ii) minimum width—25m.
- (2) Irregular lot—
  - (a) battle-axe lot—
    - (i) minimum area—1,500m<sup>2</sup>,
    - (ii) must have a rectangular building area with a minimum area of 900m<sup>2</sup> and a minimum width of 25m,
    - (iii) minimum width of battle-axe access handle servicing 1 battle-axe lot—8m,
    - (iv) maximum number of battle-axe lots sharing a single access handle—2,
  - (b) irregular corner lot—
    - (i) minimum area—1,200m<sup>2</sup>,
    - (ii) must have a rectangular building area with a minimum area of 900m<sup>2</sup> and a minimum width of 25m,
  - (c) other irregular lot—
    - (i) minimum area—900m<sup>2</sup>,

- (ii) must have a rectangular building area with a minimum area of 900m<sup>2</sup> and a minimum width of 25m.

### **Part 6 Zone 3 (1) Urban Centre (Core)**

#### **11 All types of subdivision**

No numeric standards.

### **Part 7 Zone 3 (2) Urban Centre (Support)**

#### **12 All types of subdivision**

No numeric standards.

### **Part 8 Zone 4 (1) Industrial (Core)**

#### **13 All types of subdivision**

(1) Standard lot—

- (a) minimum area—4,000m<sup>2</sup>,
- (b) minimum width—40m.

(2) Irregular lot—

- (a) battle-axe lot—
  - (i) minimum area—4,000m<sup>2</sup>,
  - (ii) minimum width—40m,
  - (iii) minimum width of battle-axe access handle—12m,
  - (iv) maximum number of battle-axe lots sharing a single access handle—2,
- (b) other irregular lot—
  - (i) minimum area—4,000m<sup>2</sup>,
  - (ii) minimum width—40m.

### **Part 9 Zone 4 (2) Industrial (General)**

#### **14 All types of subdivision**

(1) Standard lot—

- (a) minimum area—1,500m<sup>2</sup>,
- (b) minimum width—25m.

(2) Irregular lot—

(a) battle-axe lot—

- (i) minimum area—1,500m<sup>2</sup>,
- (ii) minimum width—25m,
- (iii) minimum width of battle-axe access handle—9m,
- (iv) maximum number of battle-axe lots sharing a single access handle—2,

(b) other irregular lot—

- (i) minimum area—1,500m<sup>2</sup>,
- (ii) minimum width—25m.

## **Part 10 Zone 4 (3) Industrial (Urban Services)**

### **15 All types of subdivision**

(1) Standard lot—

- (a) minimum area—1,500m<sup>2</sup>,
- (b) minimum width—25m.

(2) Irregular lot—

(a) battle-axe lot—

- (i) minimum area—1,500m<sup>2</sup>,
- (ii) minimum width—25m,
- (iii) minimum width of battle-axe access handle—9m,
- (iv) maximum number of battle-axe lots sharing a single access handle—2,

(b) other irregular lot—

- (i) minimum area—1,500m<sup>2</sup>,
- (ii) minimum width—25m.

## **Part 11 Zone 5 Infrastructure**

### **16 All types of subdivision**

No numeric standards.



## **Part 12 Zone 6 (1) Open Space**

### **17 All types of subdivision**

No numeric standards.

## **Part 13 Zone 6 (2) Tourism and Recreation**

### **18 All types of subdivision**

No numeric standards.

## **Part 14 Zone 7 (1) Conservation (Primary)**

### **19 All types of subdivision**

- (1) Minimum area for land within South Wallarah Peninsula (being land east of the Pacific Highway and south of the land to which [Lake Macquarie Local Environmental Plan 2000—North Wallarah Peninsula](#) applies)—100ha.
- (2) Minimum area for all other land within Zone 7 (1)—40ha.

## **Part 15 Zone 7 (2) Conservation (Secondary)**

### **20 All types of subdivision**

Minimum area—40ha.

## **Part 16 Zone 7 (3) Environmental (General)**

### **21 Subdivisions not for purpose of community, precinct or neighbourhood scheme**

- (1) Minimum area—40ha.
- (2) Must have a square building area that has—
  - (a) minimum width—40m,
  - (b) minimum slope of less than 1 in 5.

### **22 Subdivisions for purpose of community scheme**

- (1) Community parcel—

minimum area—40ha.
- (2) Community development lots—
  - (a) minimum area—1,000m<sup>2</sup>,
  - (b) maximum area—2,500m<sup>2</sup>,

- (c) maximum density (excluding community property)—1 lot per 10ha,
- (d) must be clustered together, or otherwise established, for the purpose of retaining a significant area of unbuilt open space to preserve, maintain and enhance the natural and scenic quality of the land,
- (e) all remaining land must be community property under the control of the community association,
- (f) must not have frontage to a public road unless it can be demonstrated that the subdivision is consistent with the existing subdivision pattern, and the subdivision will preserve the natural and scenic quality of the land.

## **Part 17 Zone 7 (4) Environmental (Coastline)**

### **23 All types of subdivision**

No numeric standards.

## **Part 18 Zone 7 (5) Environmental (Living)**

### **24 Subdivisions not for purpose of community, precinct or neighbourhood scheme**

- (1) Minimum area—2ha.
- (2) Must have a square building area that has—
  - (a) minimum width—40m,
  - (b) minimum slope of less than 1 in 5.

### **25 Subdivisions for purpose of community scheme**

- (1) Community parcel—
  - minimum area—10ha.
- (2) Community development lots—
  - (a) minimum area—600m<sup>2</sup>,
  - (b) maximum area—1,200m<sup>2</sup>,
  - (c) maximum density (excluding common property)—1 lot per ha,
  - (d) must be clustered together, or otherwise established, for the purpose of retaining a significant area of unbuilt open space to preserve, maintain and enhance the natural and scenic quality of the land,
  - (e) all remaining land must be community property under the control of the

community association,

- (f) must not have frontage to a public road unless it can be demonstrated that the subdivision is consistent with the existing subdivision pattern, and the subdivision will preserve the natural and scenic quality of the land.

## **Part 19 Zone 8 National Park**

### **26 All types of subdivision**

No numeric standards.

## **Part 20 Zone 9 Natural Resources**

### **27 All types of subdivision**

No numeric standards.

## **Part 21 Zone 10 Investigation**

### **28 All types of subdivision**

Subdivision prohibited.

## **Schedule 3 Classification and reclassification of public land as operational land**

(Clause 61)

### **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>
<b>Belmont</b>	
30a and 30b Gerald Street	Lots 1 and 2, DP 350939
<b>Fennell Bay</b>	
302 Main Road	Lot 1, DP 23093; Lots 2 and 3, DP 20567; Part of Lot 1, DP 20567
<b>Speers Point</b>	
45a Alley Street	Lot 2, DP 362239
<b>Warners Bay</b>	
11 John Street	Lot 53, DP 1128122

13 John Street	Lots A and B, DP 162087
21 John Street	Lot 10, DP 1128914

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

Column 1 Locality	Column 2 Description	Column 3 Trusts etc not discharged
<b>Belmont</b>		
39 Gerald Street	Lot 21, DP 620675, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)</i> "	Easement for access and pipeline (P805804) as noted on Certificate of Title Folio Identifier 21/620675
37C Ross Street	Lot 2, DP 358543, as shown edged heavy black on Sheet 5 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
65 Tudor Street	Part of Lot 1, DP 358543, as shown edged heavy black on Sheet 5 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
<b>Bennetts Green</b>		
16 Pacific Highway	Lot 14, DP 1013486, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Nil.
18 Pacific Highway	Lot 13, DP 1013486, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Nil.
20 Pacific Highway	Lot 12, DP 1013486, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Nil.
22 Pacific Highway	Lot 11, DP 1013486, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Nil.
<b>Cardiff</b>		

60 Ada Street	Part of Lot 21, DP 245962, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 70)</i> "	Nil.
42 Illawarra Avenue	Lot 8, DP 248567, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 47)</i> "	Nil.
1 Bank Street	Lot 10, Section 12, DP 2472, as shown edged heavy black on Sheet 5 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)</i> "	Nil.
410 Main Road	Lot 2, DP 22637, as shown edged heavy black on the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 63)</i> "	Nil.
175 Myall Road	Lot 11, DP 1097938, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Easement for drainage (DP 1097938) as noted on Certificate of Title Folio Identifier 11/1097938.
<b>Cardiff South</b>		
1A Water Street	Part of Lot 63, DP 570307, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 3)</i> ".	Nil.
<b>Charlestown</b>		
2 Canberra Street	Lot 2, DP 727770, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 19)</i> "	Nil.
1 Frederick Street	Lot 4, DP 248597 and Lot 1, DP 47292, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 19)</i> "	Nil.
3 Frederick Street	Lot 3, DP 248597, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 19)</i> "	Nil.
128A Pacific Highway	Part of Lot 3, DP 1090261, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 19)</i> "	Easement for water supply pipeline (Government Gazette 14/12/1956) 3.05 wide as noted on Certificate of Title Folio Identifier 3/1090261.

**Edgeworth**

29 Arnott Street	Lot 2, DP 841357, as shown edged heavy black on Sheet 4 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)</i> "	Nil.
12 Huntly Close	Lot 158, DP 245903, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
742c Main Road	Lot A1, DP 420093, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 48)</i> "	Nil.
8 Tona Close	Lot 157, DP 245903, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
<b>Fennell Bay</b>		
8a Edward Street	Part of Lot 44, DP 10416, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 47)</i> "	Nil.
<b>Fishing Point</b>		
68a Fishing Point Road	Lot 490, DP 11537	Nil
<b>Gateshead</b>		
6A Pacific Highway	Part of Lot 10, DP 1013486, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Easement for water supply pipeline (DP165130) as noted on Certificate of Title Folio Identifier 10/1013486.
<b>Glendale</b>		
47 Glendale Drive	Lot 1, DP 656808, as shown edged heavy black on the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 63)</i> "	Nil.
5 Glendon Crescent	Lot 20, DP 544986	Nil
7 Glendon Crescent	Lot 1, DP 527557	Nil

Lake Road	Lot 11, DP 865769, as shown edged heavy black on the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 13)</i> "	Easement for transmission line (S447682; O171544); Easement for underground cables (S580540; Z646912); Two easements for watermain 7.5 wide and 3.66 wide (O189149), as noted on Certificate of Title Folio Identifier 11/865769.
-----------	---	---

**Macquarie Hills**

127 Macquarie Road	Lot 41, DP 1132840	Easement for transmission line (K556111) as noted on Certificate of Title Folio Identifier 41/1132840
--------------------	--------------------	---

**Marks Point**

1A Findon Street	Lot 3, DP 505562, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)</i> "	Nil.
------------------	---	------

3A Findon Street	Part of Lot 120, DP 592220, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)</i> "	Easement for electricity purposes and right of carriageway (DP 592220) and Lease (3462625), as noted on Certificate of Title Folio Identifier 120/592220.
------------------	---	---

36c Marks Point Road	Lot 3, DP 350518, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)</i> "	Nil.
----------------------	---	------

**Morisset Park**

25 Chifley Road	Lot 8, DP 244002, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
-----------------	---	------

**Redhead**

21 Elsdon Street	Part of Lot 100, DP 609787, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 48)</i> "	Covenant (S39899) and Lease to Lake Macquarie Youth Refuge Incorporated (I178754) as noted on Certificate of Title Folio Identifier 100/609787.
------------------	---	---

37c Elsdon Street	Lot 1, DP 202667	Nil
-------------------	------------------	-----

**Swansea**

4 Josephson Street	Lot 421, DP 785216, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
16 Josephson Street	Lot 41, DP 5688, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
22 Josephson Street	Lot 38, DP 5688, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
24 Josephson Street	Lot 37, DP 5688, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
26 Josephson Street	Lot 36, DP 5688, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Any lease that is registered by 30 June 2009 and noted on Certificate of Title Folio Identifier 36/5688.
27 Lake Road	Part of Lot 63, DP 18797, as shown edged heavy black on Sheet 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)</i> "	Lease (8802695) and Transfer of Lease (9656620), as noted on Certificate of Title Folio Identifier 63/18797.
27 Lake Road	Part of Lot 63, DP 18797 (being the remainder of the lot), as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 51)</i> "	Nil.
86a Northcote Avenue	Lot 1341, DP 592683, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)</i> "	Covenant (H882038) as noted on Certificate of Title Folio Identifier 1341/592683
104c Pacific Highway	Lot 2, DP 529225, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
<b>Toronto</b>		
19 Grattoir Place	Part of Lot 11, DP 1066866, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 48)</i> "	Two easements for transmission lines (H152009; E460723) and Easement to drain water (DP 1002247) as noted on Certificate of Title Folio Identifier 11/1066866.



2 Leo Lewis Close	Part of Lot 6, DP 1066866, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 51)</i> "	Easement to drain water (DP1066866) as noted on Certificate of Title Folio Identifier 6/1066866.
-------------------	--	--

86A The Boulevarde	Lot 2, DP 612606, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 22)</i> "	Nil.
--------------------	---	------

32a Victory Parade	Lot 94, DP 9673, as shown edged heavy black on Sheet 4 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
--------------------	--	------

**Warners Bay**

9 Ashton Close	Lot 526, DP 859786, as shown edged heavy black on Sheet 5 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
----------------	---	------

5 Charles Street	Part of Lot 3, DP 584391, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)</i> "	Lease (I645011) and Mortgage of Lease (I946289), as noted on Certificate of Title Folio Identifier 3/584391.
------------------	---	--

7 Charles Street	Lots 1 and 2 DP 584391, as shown edged heavy black on Sheet 4 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)</i> "	Lease (I645011) and Mortgage of Lease (I946289), as noted on Certificates of Title Folio Identifiers 1/584391 and 2/584391.
------------------	---	---

23A Charles Street	Lot 1, DP 995572, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
--------------------	---	------

25 Charles Street	Lot 1, DP 995571, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
-------------------	---	------

27 Charles Street	Lot 3, Section 28, DP 111125, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
-------------------	---	------

47 Charles Street	Lot 105, DP 1131065	Nil.
-------------------	---------------------	------

1c John Street	Lot 1, DP 661964, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
----------------	---	------

18 John Street	Lot 131, DP 529234, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
20 John Street	Lot 29, DP 745867, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.
36 John Street	Lot 21, Section 28, DP 111125, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Easement for electricity (Book 3721 No 878) as noted on Certificate of Title Folio Identifier 21/28/111125.
38 John Street	Lot 20, DP 91634, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Right of carriageway (DP 1022769) as noted on Certificate of Title Folio Identifier 20/91634.
40 John Street	Lot 101, DP 1131065	Right of carriageway (DP 1022769) as noted on Certificate of Title Folio Identifier 101/1131065
42 John Street	Lot 102, DP 1131065	Nil.
57 King Street	Lot 50, DP 623626, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Lease to Warners Bay Early Learning and Care Incorporated (AE814798H) (expires 31/12/2013) as noted on Certificate of Title Folio Identifier 50/623626
59 King Street	Lot 104, DP 1131065	Lease to Warners Bay Early Learning and Care Incorporated (AE814798H) (expires 31/12/2013) as noted on Certificate of Title Folio Identifier 104/1131065
61 King Street	Lot 103, DP 1131065	Lease to Warners Bay Early Learning and Care Incorporated (AE814798H) (expires 31/12/2013) as noted on Certificate of Title Folio Identifier 103/1131065
63 King Street	Lots 1 and 2, DP 521740, as shown edged heavy black on Sheet 6 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)</i> "	Nil.
20 Lake Street	Lot 130, DP 529234, as shown edged heavy black on Sheet 7 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 28)</i> "	Nil.

## Wyee

20 and 22 Summerhayes Road	Lots 4 and 5, Section 16, DP 759124, as shown edged heavy black on Sheet 3 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 47)</i> "	Nil.
16a Tullokan Road	Lot 430, DP 755242	Nil.

## Wyee Point

Land known as part of the Ramsgate Estate "paper subdivision"	Lot 1, DP 124592; part of the land in DP 1596, comprising Lots 1-12, Section A, Lot 1, Section B, Lots 2, 4-11, 16-22 and 24-28, Section C, Lots 1-12, Section D, Lots 1, 25 and 26, Section G, Lots 4, 5 and 13, Section H, Lots 5, 6 and 9, Section J, Lots 15 and 16, Section L, Lots 1-10, 33 and 34, Section M, Lots 7-10, Section N, Lots 17 and 18, Section O, Lots 22-26, Section P, Lots 9, 10 and 33-36, Section T and Lot 19, Section V	Nil.
---	--	------

## Schedule 4 Heritage items other than of indigenous origins and including potential archaeological sites

(Clause 51 and Dictionary)

### Part 1 Heritage items other than of indigenous origins

In this Schedule, for the purpose of listing property descriptions, the symbol **S** means identified as of State significance, **R** means identified as of regional significance, **L** means identified as of local significance, **PO** means Permissive Occupancy, **MS** means miscellaneous, **MD** means Maitland and **SP** means strata plan.

Item No	Significance	Item	Address	Property description
<b>Argenton</b>				
AG-01	L	Newcastle Mines Rescue Station	533 Lake Rd	Lot 2, DP 599235
AG-02	L	Former Cockle Creek Railway Bridge	2 (over) Cockle Creek (also see RT-09)	
AG-03	L	Cockle Creek Railway Bridge	3 (over) Cockle Creek (also see RT-03)	
AG-05	L	Church Hall and Anglican Church	477 Lake Rd 475 Lake Rd	Lot 1, DP 125686 Lot 2, DP 125686
AG-06	L	Speers Point Tram Route	Frederick St (also see RT-02)	

### Awaba

AW-03	L	Former Awaba Union Church	20 Gosford St	Lot 1, Section 8, DP 758041
AW-05	L	Gatekeeper's Cottage	154 Wilton Road	Lot 1, DP 817297

### Barnsley

BY-02	L	Johnston Family Cemetery	14A Taylor Ave	Lot 100, DP 630296
BY-03	L	Former Barnsley Public School	91 Appletree Rd	Lot 2, DP 1001812

### Belmont

BM-01	L	House "Yarragee"	23 Bellevue Rd	Lot 1, DP 881605
BM-04	L	Captain Bain's House	15 George St	Lot 2, DP 13715
BM-05	L	House "The Bennals"	45 Walter St	Lot D, DP 402085
BM-08	L	Former Ferry Wharf	55 Brooks Pde	Belmont Wharf

### Belmont North

BN-01	L	Former John Darling Colliery	14 John Darling Ave	Lot 100, DP 1136505
			65 John Fisher Rd	Lot 1, DP 814551
			85 John Fisher Rd	Lot 2, DP 814551
			75 John Fisher Rd	Lot 3, DP 814551
BN-04	L	Former Staff Houses, Colliery Row	3 Maranatha Cl	Lot 12, DP 848941
			7 Maranatha Cl	Lot 14, DP 848941
			9 Maranatha Cl	Lot 15, DP 848941
			21 Maranatha Cl	Lot 120, DP 853391

### Belmont South

BS-02	L	Tank traps	Cold Tea Creek, 690A Pacific Hwy	Lot 7024, DP 1057186
-------	---	------------	----------------------------------	----------------------

### Blackalls Park

BK-02	L	Railway Bridges	2 (over) Mudd Creek and 2 (over) Stony Creek (also see RT-11)
BK-03	L	Railway Station	26 South Pde (also see RT-11)

**Boolaroo**

BR-01	L	Group of 4 Cottages	8 Creek Reserve Rd 10 Creek Reserve Rd 12 Creek Reserve Rd 14 Creek Reserve Rd	Lot 11, DP 616785 Lot 1, DP 301687 Lot 3, DP 8704 Lot 4, DP 8704
BR-02	L	Former Boolaroo Post Office	91 Main Rd	Lot 2, DP 809177
BR-04	L	Former Motor Garage	19 Main Rd	Lot 1, DP 125272
BR-05	L	Commercial Hotel	2 Main Rd	Lot 1, Section A, DP 3494, Lot 2, Section A, DP 3494
BR-06	L	House "Alida"	Lakeview Rd	Lot 4, Section M, DP 3494
BR-16	L	Former Laboratory building on the former Pasmaenco site	Part of 13A Main Rd	Part of Lot 2, DP 1127713

**Booragul**

BU-01	L	Colliery Relics	155 Old Main Rd	Lot 33, DP 858667
BU-02	L	House "Awaba Park"	18 Marmong St 2b First St	Lot 120, DP 855520 Lot 33, DP 1133743
BU-03	L	Quigley Grave	24 Park Pde	Pt Lot 468, DP 774186

**Cams Wharf**

CW-01	L	Lord of the Manor Cams Cottage	13 Cams Wharf Rd	Lot 2, DP 616354
-------	---	--------------------------------	------------------	------------------

**Cardiff**

CF-01	L	Row of 4 Shops with Cottages	275 Main Rd 279 Main Rd	Lot 21, DP 544989 Lot 22, DP 544989
CF-02	L	Brick Shops	281 Main Rd	Lot 4, DP 10789
CF-04	L	Former Doctor's Surgery	8 Michael St	Lot 2, DP 214463
CF-05	L	House	6 Michael St	Lot 1, DP 214463
CF-08	L	Cardiff Masonic Hall	4 Margaret St	Lot 12, Section B, DP 8186
CF-09	L	House	309 Main Rd	Pt Lot 34, DP 755233
CF-15	L	St Kevin's Cottage	230 Main Rd	Lot 1, DP 1015805
CF-16	L	St Kevin's Church	226 Main Rd	Lot 3, Section A, DP 4143
CF-17	L	Former Miner's Cottage	251 Main Rd	Lot 1, DP 303203

### Cardiff South

CS-01	L	Former Colliery Tramway	14a Almora Cl 180 Macquarie Rd 235 Macquarie Rd (also see RT-15)	Lot 38, DP 827464 Lot 17, DP 727746 Lot 673, DP 805546
-------	---	-------------------------	---	--

### Catherine Hill Bay

CH-03	L	Police Station and Lock Up	23-27 Clarke St	Lot 1, Section F, DP 163, Lot 3, Section F, DP 163, Lot 5, Section F, DP 163
CH-04	L	Wallarrah Hotel	24 Clarke St	Lot 1, Section D, DP 163
CH-05	L	Cottages	10 Clarke St 12 Clarke St	Lot 71, DP 222717 Lot 72, DP 222717
CH-06	L	Cottages	21 Clarke St 19 Clarke St	Lot 78, DP 222717 Lot 79, DP 222717
CH-07	L	Cottage	17 Clarke St	Lot 80, DP 222717
CH-08	L	Cottages	9 Clarke St 7 Clarke St 5 Clarke St 3 Clarke St	Lot 84, DP 222717 Lot 85, DP 222717 Lot 86, DP 222717 Lot 87, DP 222717
CH-10	L	Cottage	3 Lindsley St	Lot 54, DP 222717
CH-12	L	Cottage	11 Lindsley St	Lot 58, DP 222717
CH-14	L	Coal Loader Jetty	Southern end of the beach	Lot 104, DP 1129872
CH-17	L	House and 4 Norfolk Pines	38 Flowers Dr	Lot 22, DP 593154
CH-19	L	Anglican Church	71 Flowers Dr	Lot 21, DP 593154
CH-21	L	Group of cottages	27 Flowers Dr	Lot 14, DP 222943
			29 Flowers Dr	Lot 15, DP 222943
			31 Flowers Dr	Lot 16, DP 222943
			33 Flowers Dr	Lot 17, DP 222943
			35 Flowers Dr	Lot 18, DP 222943
			37 Flowers Dr	Lot 19, DP 222943
			42 Flowers Dr	Lot 41, DP 222943
			44 Flowers Dr	Lot 42, DP 222943
			46 Flowers Dr	Lot 43, DP 222943
			48 Flowers Dr	Lot 44, DP 222943
50 Flowers Dr	Lot 45, DP 222943			
54 Flowers Dr	Lot 47, DP 222943			
56 Flowers Dr	Lot 48, DP 222943			
58 Flowers Dr	Lot 49, DP 222943			

CH-22	L	Hall	1 Northwood Rd	Lot 1, DP 407474
CH-24	L	House	26 Flowers Dr	Lot 1, DP 1107593
CH-27	L	House	38 Flowers Dr (off Colliery Rd)	Lot 223, DP 1102989
CH-32	L	Cemetery	8 Northwood Rd	Lot 7079, DP 1029250
CH-34	S	Former WWII RAAF Radar Station 208	145 Mine Camp Rd	Lot 16, DP 755266 Lot 3, DP 1016670

### Charlestown

CT-01	L	Miners' Cottages	300 Charlestown Rd 304 Charlestown Rd 306 Charlestown Rd 308 Charlestown Rd	Lot 2, DP 33470 Lot 4, DP 33470 Lot 5, DP 33470 Lot 6, DP 33470
CT-03	L	Cottage	32 Smith St	Lot 1, DP 213865
CT-04	L	Brick Cottage	36 Smith St	SP 43904

### Coal Point

CP-01	L	Threlkeld's Mine	359 Coal Point Rd	Lot 172, DP 1037893
-------	---	------------------	-------------------	---------------------

### Cooranbong

CB-01	L	Grave "Frost's Rest"	54 Mannings Rd	Lot 1, DP 919600
CB-02	L	Catholic Church and Cemetery	6 Martinsville Rd	Lot 1, DP 197852
CB-03	L	Former Post Office	41 Martinsville Rd	Lot 120, DP 755223
CB-06	L	House	9 Kings Rd	Lot 3, DP 549007
CB-07	L	House	85 Kings Rd	Lot 1, DP 798409
CB-08	L	North Corrumbung Cemetery	200 Martinsville Rd	Lot 7300, DP 1145113 Lot 1, DP 1095988
CB-09	L	Suspension Footbridge	Off Victory St—Crosses Dora Creek	
CB-17	L	Water Tower	15 Central Rd	Lot 20, DP 3534
CB-18	L	Bethel Hall	50 Central Rd	Lot 18, DP 129134
CB-21	L	College Hall	50 Central Rd	Lot 18, DP 129134
CB-22	L	Science Hall	50 Central Rd	Lot 18, DP 129134
CB-23	L	House "The Laurels"	50 Central Rd	Lot 18, DP 129134
CB-24	L	Auditorium	50 Central Rd	Lot 9, Section 7, DP 3533

CB-26	L	Sanitarium Health Foods Factory	70 Central Rd 70 Central Rd 50 Central Rd 50 Central Rd	Lots 6, 7 and 8, Section 1, DP 3533 Lot 1, DP 938761 Lot 18, DP 129134
CB-27	L	Sanitarium Dairy Farm	15 Central Rd	Lots 18 to 23, Section 3, DP 3533
CB-28	L	House "Three Bells"	597 Freemans Dr	Lot 201, DP 1059478
CB-29	L	Cottage	661 Freemans Dr	Lot A, DP 416525
CB-31	L	House "Sunnyside"	27 Avondale Rd	Lot 2, DP 204207

**Dora Creek**

DC-02	L	House	16 Dora St	Lot 11, DP 533825
DC-03	L	Holmes Store	3 Watt St	Lot 38, DP 528601
DC-04	L	Former St Paul's Anglican Church	26 Coorumbung Rd	Lot 101, DP 840020

**Dudley**

DL-01	L	Cast Iron Reservoir	147 Ocean St	Lot 1, 446723
DL-02	L	Dudley Monument	Corner of Redhead Rd and Ocean St	Lot 189, DP 755233
DL-03	L	Two Miner's Cottages	125 and 127 Ocean St	Lot 3, Section D, DP 2657 and Lot 11, DP 1150274
DL-04	L	Dudley Public School	124 Ocean St	Lot 145, DP 755233
DL-06	L	Pensioners Hall	98 Ocean St	Lot 1, DP 931771
DL-07	L	Ocean View Hotel	85 Ocean St	Lot 20, Section A, DP 2304
DL-08	L	Royal Crown Hotel	94 Ocean St	Lot 18, Section B, DP 2304
DL-09	L	Former Miner's Cottage	31 Thomas St	Lot 9, Section D, DP 2657
DL-10	L	Former Miner's Cottage	29 Thomas St	Lot 11, Section D, DP 2657

**Edgeworth**

EW-07	L	School Teacher's Residence	7 Minmi Rd	Lot 106, DP 755262
-------	---	----------------------------	------------	--------------------



### Eraring

ER-01	L	Eraring Power Station	268 Rocky Point Rd, Eraring 294 Rocky Point Rd, Eraring 115 Construction Rd, Myuna Bay 215 Construction Rd, Myuna Bay 235 Construction Rd, Myuna Bay 260 Construction Rd, Myuna Bay	Lot 11, DP 1050120 Lot 10, DP 1050120 Lot 50, DP 840671 Lot 20, DP 840668 Lot 211, DP 840670 Lot 51, DP 840671
-------	---	-----------------------	--	---

### Fassifern

FF-01	L	Fassifern Railway Cottage	Wallsend Rd	Lot 1, DP 854050
FF-02	L	Toronto Railway Overbridge	(over) Fassifern Rd (also see RT-11)	
FF-03	L	Fassifern Railway Station	29 Fassifern Rd	

### Freemans Waterhole

FW-01	L	Headframe Former Mining Museum	890A Freemans Dr	Lot 80, DP 610602
-------	---	--------------------------------	------------------	-------------------

### Glendale

GD-01	L	Cardiff Railway Workshops	460 Main Rd	Lot 100, DP 1100258
-------	---	---------------------------	-------------	---------------------

### Holmesville

HV-04	L	Brick House	47 Appletree Rd	Lot 3, Section B, DP 4479
HV-06	L	Brick House	54 Appletree Rd	Lot 22, DP 740832
HV-07	L	House	20 William St	Lot 14, Section E, DP 5432
HV-08	L	Former Police Station	20 Charlotte St	Lot 15, Section E, DP 5432
HV-09	L	Post Office Store	18 George St	Lot 1, Section L, DP 3442
HV-11	L	Holmesville Hotel	21 George St	Lot 20, Section M, DP 3442
HV-20	L	House	32 Seaham St	Lot 42, Section B, DP 4479
HV-24	L	Railway Station	Killingworth Rd (also see RT-09)	

HV-25	L	Former Uniting Church	29 Helens St	Lot 16, Section N, DP 3442
<b>Kahibah</b>				
KH-01	S L	Glenrock Railway and Mine Entrance and early coal mining sites	Glenrock State Recreation Area	Lot 1, DP 523208 and Lot 21, DP 575387
<b>Killingworth</b>				
KW-02	L	Elcom Newcastle Substation	101 Killingworth Rd	Lot 1, DP 619513 Lot 2, DP 619513
KW-03	L	Former Killingworth Hotel	39 Killingworth Rd	Lot 13, Section E, DP 4339
KW-05	L	Soldier's Memorial	26 The Broadway	Lot 1, Section D, DP 4339
<b>Kotara South</b>				
KS-01	L	South Waratah Colliery	31 Kirkdale Dr (also see RT-06)	Lot 132, DP 243393
<b>Little Pelican</b>				
LP-01	L	Little Pelican cottages and site		Lot 7036, DP 1030788
<b>Marks Point</b>				
MK-01	L	House	15 Haddon Cr	Lot 1, DP 124241
<b>Martinsville</b>				
MV-01	L	Public School	495 Martinsville Rd	Lot 157, DP 823773
MV-02	L	House "Woodside"	32 Wilkinson Rd	Lot 1, DP 741192
MV-03	L	Dora Creek Bridge	Owens Rd	
MV-04	L	Farm House "Wonga Hill"	324 Owens Rd	Lot 63, DP 661760
MV-08	L	Former Union Church	447 Martinsville Rd	Lot A, DP 4329
<b>Morisset</b>				
MS-01	L	Stationmaster's House	58 Dora St	Pt Lot 1, DP 1002965
MS-02	L	Community Hall	77 Dora St	Lot 2, DP 590896
MS-04	L	Mullard Chambers building	71 Dora St	Lot 1, DP 215590
MS-08	L	Morisset High School	33 Bridge St	Lot 3, Section 40, DP 758707

MS-10	L	Tree—Morisset's Campsite	147 Macquarie St	Lot 7045, DP 93593
MS-12	S L	Morisset Hospital Wards 5 and 6	84 Bridge Street, Morisset	Lot 1, DP 880557
MS-13	S L	Morisset Hospital Ward 9, Clinical Dept	84 Bridge Street, Morisset	Lot 1, DP 880557
MS-14	S L	Morisset Hospital Ward 10	84 Bridge Street, Morisset	Lot 1, DP 880557
MS-15	S L	Morisset Hospital The Chapel	84 Bridge Street, Morisset	Lot 1, DP 880557
MS-16	S L	Morisset Hospital Recreation Hall	84 Bridge Street, Morisset	Lot 1, DP 880557
MS-17	S L	Morisset Hospital The Main Store	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-19	S L	Morisset Hospital Residence No 1	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-20	S L	Morisset Hospital Ward 17, General Psychiatry	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-23	S L	Morisset Hospital Ward 12	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-24	S L	Morisset Hospital Residence No 3	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-25	S L	Morisset Hospital Maximum Security Division	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-26	S L	Morisset Hospital Cottage Row Residence Nos 16, 17, 18, 19, 20 and 21	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557
MS-29	S L	Morisset Hospital Water Supply Dam—Pourmalong Creek	69a Fishing Point Rd, Bonnells Bay	Lot 1 DP 880557

**Nords Wharf**

NW-01	L	Former Guesthouse "Kurrawilla"	127 Marine Pde	Lot 4 to 9, DP 23483
NW-02	L	"Nords Wharf"	43c Nords Wharf Rd	PO 1970/126

**Pelican**

PF-01 L Cabbage Trees 5 Soldiers Rd Lot 135, DP 1151226

**Railways and tramways**

RT-01	L	West Wallsend Steam Tram Line	West Wallsend to Newcastle via Wallsend, Holmesville, Estelville, Edgeworth and Glendale	
RT-02	L	Speers Point Steam Tram Line	Newcastle to Speers Point via West Wallsend	
RT-03	L	Great Northern Railway	Line passes through Lake Macquarie from Garden Suburb to Wyee	
RT-04	L	Belmont Railway	Adamstown to Belmont, the New Redhead Estate and Coal Company Railway	
RT-05	L	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	Lots 1, 2 and 9, DP 1038830
RT-06	L	Raspberry Gully Line Railway	Opposite Dalpura Lane to the Main Northern Railway Line, near Adamstown along Styx Creek	
RT-09	L	Seaham, West Wallsend, Fairley and Killingworth Railway	Cockle Creek to Seaham No 1 Colliery at Seahampton with branches to Fairley and Killingworth	
RT-10	L	Rhondda Colliery Railway	From West Wallsend railway on the northside of Stockton Borehole Colliery to the Rhonda Colliery south of Rhonda Rd, Teralba	

RT-11	L	Fassifern to Toronto Branch Railway Line	Fassifern Railway Station to Toronto Railway Station and then Toronto Wharf
RT-14	L	Wyee Coal Conveyor Railway Loop	North of Wyee to Vales Point Power Station
RT-15	L	Cardiff South Colliery Tramway	Macquarie Rd, Cardiff South

### Rathmines

RM-00	S	Rathmines Park (former RAAF Seaplane Base)	Area bounded by Lake Macquarie, The Circlet, Rosemary Row and Overhill Rd	Lots 37-49, Pt Lot 50 and Pt Lot 51, DP 11537 Lot 4, DP 704472 Lot 1, DP 226530 Lot 1, DP 226531 Lot 1, DP 226532 Lot 1, DP 226533 Lot 1, DP 226534 Lot 7, DP 516152 Lot 60, DP 584602 Lots 62-64, DP 596913 Lots 648 and 654, DP 806611
RM-01	L	Catalina Memorial Nursing Home	171 Dorrington Rd	Lot 2, DP 226531
RM-02	L	Community Hall	1 Overhill Rd	Lot 64, DP 596913
RM-03	L	Catamaran Club	1 Overhill Rd	Lot 64, DP 596913
RM-04	L	Christadelphian School	2 Stilling St	Lot 5, DP 226534
RM-05	L	Flying Boat Ramps	1 Overhill Rd	Lot 64, DP 596913
RM-06	L	Rathmines Bowling Club	1 Stilling St	Lot 4, DP 226533
RM-07	L	Catalina War Memorial	1 Overhill Rd	Lot 64, DP 596913
RM-08	L	Rathmines Holiday Camp	3 Stilling St	Lot 1, DP 226530
RM-09	L	Brick Store	1 Overhill Rd	Lot 64, DP 596913
RM-10	L	Boat Slip	1 Overhill Rd	Lot 64, DP 596913
RM-12A	L	Emergency Radio Bunkers	115 Wangi Rd	Lot 466, DP 1138964

### Redhead

RH-01	L	Lambton Colliery	1 Geraldton Dr	Lot 68, DP 878840
-------	---	------------------	----------------	-------------------

RH-03	L	Under-Manager's House	17 Geraldton Dr	Lot 7, DP 878840
RH-04	L	"The Gables"	87 Redhead Rd	Lot 4, DP 737493
RH-07	L	Mine Manager's House	21 Elsdon St	Lot 100, DP 609787
RH-08	L	Shark Tower	2A Beach Rd	Lot 1412, DP 755233

### **Speers Point**

SP-03	L	House	10 Council St	Lot 1, DP 518527
SP-04	L	House	8 Council St	Lot 1, DP 521920
SP-08	L	House	18 Alley St	Lot 11, DP 525378
SP-09	L	House	37 Alley St	Lot 1, DP 587774
SP-10	L	Cottage	64 Speers St	Lot 1, DP 348879
SP-11	L	House	66 Speers St	Lot 3, DP 562487
SP-12	L	House	41 Albert St	Lot 1, DP 962726
SP-13	L	House	74 Speers St	Pt Lot 1, DP 956798
SP-14	L	House	214 The Esplanade	Lot 1, DP 108865
SP-16	L	House "The Knoll"	374 The Esplanade	Lot 3, DP 786053
SP-17	L	House	332 The Esplanade	Lot 4, DP 350608
SP-19	L	House	302 The Esplanade	Lot 32, DP 564214
SP-23	L	House	282 The Esplanade	Lot 145, DP 558308
SP-25	L	Former Lake Macquarie Council Chambers	143 Main Rd	Lot 13, DP 810700
SP-26	L	House	141 Main Rd	Lot 1, DP 368588
SP-29	L	Speers Point Garage	155 Main Rd	Lot 12, Section A, DP 4063
SP-30	L	House "Shangrila"	157 Main Rd	Lot 11, Section A, DP 4063
SP-31	L	House	159 Main Rd	Lot 10, Section A, DP 4063
SP-34	L	Lakeview Street Theatre	81 Lakeview St	Lot 14, Section B, DP 4063
SP-36	L	Shelter Shed	15 Park Rd	Lot 1, DP 998238
SP-37	L	Minenwerfer (or German Mortar)	15 Park Rd	Lot 1, DP 998238

### **Swansea**

SS-02	L	The Swansea Hotel	196 Pacific Hwy	Lot 12, DP 1101804
-------	---	-------------------	-----------------	--------------------

**Swansea Heads**

SD-02	L	Coast Guard Station	3a Lambton Pde	Lot 548, DP 39981
SD-03	L	Reid's Mistake, Head and Channel	7a Lambton Pde	Pt Reserve 88033

**Teralba**

TA-03	L	Shop	10 Anzac Pde	Lot 1, DP 999965
TA-08	L	House "Moria"	59 York St	Lot 17, DP 816302
TA-09	L	Teralba Public School	57 York St	Lot 2, DP 795123
TA-10	L	Great Northern Hotel	2 Anzac Pde	Lot 7, Section A, DP 447469
TA-11	L	House "AS"	101 Railway St	Lot 261, DP 554269
TA-12	L	Station Master's Cottage	150 Railway St	Lot 3, DP 831957
TA-13	L	Teralba Cemetery Billygoat Hill	20 Pitt St	Lot 31, DP 858667
TA-16	L	Gartlee Mine	159 Railway St	Lot 102, DP 1131669
TA-17	L	Rhondda Colliery	282 Rhondda Rd 284 Rhondda Rd	Lot 101, DP 1073163 Lot 76, DP 755262
TA-18	L	Former Co-operative Store	75 York St	Lot 18, DP 1158353
TA-25	L	St Hilda's Church	16 York St	Lot 4, DP 1128610

**Toronto**

TT-01	L	House "Manuka"	182 Excelsior Pde	Lot 461, DP 589541
TT-06	L	House "The Moorings"	2 Jarrett St	Lot 1, DP 1108227
TT-08	L	Toronto Cemetery	354 Awaba Rd	Lots 7044 to 7046, DP 1052029 and Lot 7058, DP 1052031
TT-09	L	Toronto Hotel	74 Victory Pde	Lot 201, DP 549239
TT-11	L	Former Railway Station	16 Victory Row	Lot 220, DP 1021925
TT-12	L	Frith's Store	66-74 The Boulevarde	Lot 1, DP 1154114
TT-15	L	Building Restaurant	24 Victory Pde	Lot 1, DP 301366
TT-16	L	Royal Motor Yacht Club Annexe	8 Arnott Ave	Lot 12 to 15, DP 456286
TT-17	L	Building Restaurant	6 Arnott Ave	Lot X, DP 406274, Pt Lot 424, DP 823708, Lot 1, DP 917503

TT-18	L	Boatman's Cottage Lakefront	4 Arnott Ave	Lot 1, DP 950464
TT-19	L	Boathouse and Winches Lakefront	4 Arnott Ave	Lot 1, DP 950464 PO 65/60
TT-20	L	House	4 Arnott Ave	Lot 1, DP 950464
TT-21	L	House "Burnbrae"	32 Renwick St	Lot 1, DP 122786
TT-22	L	Station Master's Cottage	98 Brighton Ave	Lot 1, DP 125979
TT-23	L	House "McGeachie's"	109 Brighton Ave	Lot 2, DP 515029
TT-29	L	Convent of Mercy	26 Renwick St	Lot 2122, DP 1116609
TT-30	L	House	23 Renwick St	Lot 2, DP 350492
TT-38	L	Cottage	6 Renwick St	Lot 21, Section 7, DP 4236
TT-42	L	House	16 Hunter St	Lot 111, DP 596414
TT-43	L	Winn's House	19 Hunter St	Lot 100, DP 717511

### Wangi Wangi

WG-01	S L	Wangi Power Station	80 Donnelly Rd	Lot 101, DP 880089
WG-04	L	House "Dobell House"	47 Dobell Dr	Lot 13, DP 8840
WG-06A	L	Gun emplacements	24 Reserve Rd	Lot 526, DP 662836

### Warners Bay

WB-01	L	House "Ali's Palace"	6 Fairfax Rd	Lot 2, DP 20222, Lot 34, DP 20222, Pt Lot 1, DP 20222
WB-02	L	First Orange Orchard	The slope with north eastern aspect falling from crest of hill at corner Beryl and Mills Sts down to creek and tramway	(WB-03)
WB-03	L	Mine Pithead and Coal Tramway to Lake	Follows creek from below Barbara St, to Lake between Howard and James Sts	
WB-04A	L	Cottage	17 Daydawn Ave	Lot 10, DP 651218

### West Wallsend

WW-01	L	West Wallsend Football Club Ground	3 Laidley St, Johnson Park	Lot 1, DP 421411
-------	---	------------------------------------	----------------------------	------------------



WW-02	L	West Wallsend (No 1) Colliery	off Wilson St	Pt Lot 106, DP 1000408
WW-05	L	Cottage	12 Carrington St	Lot 6, Section Z, DP 3809
WW-06	L	Cottage	15 Carrington St	Lot 15, Section D, DP 2252
WW-08	L	House "Earsdon Cottage"	20 Carrington St	Lot A, DP 370073
WW-10	L	Former Shop and Doctors surgery	47 Carrington St	Lot 16, Section C, DP 2252
WW-11	L	House	47 Carrington St	Lot 16, Section C, DP 2252
WW-12	L	Former Shop and House	52 Carrington St	Lot 2, Section G, DP 2252
WW-13	L	Post Office and Residence	54 Carrington St	Lot 1, Section G, DP 2252
WW-14	L	Catholic Church and Convent	5 Hyndes St	Lot 15, Section G, DP 2255, Lot 16, Section G, DP 2252, Lot 1, DP 500232, Lot 2, DP 500232
WW-15	L	Soldiers' Memorial and Park	49 Carrington St	Lot 1, DP 301342
WW-16	L	Workers' Club	51 Carrington St	Lot 11, DP 863266
WW-18	L	Clyde Inn Hotel	57 Carrington St	Lot 12, Section B, DP 2252
WW-19	L	House	59 Carrington St	Lot A, DP 382915
WW-23	L	Former School of Arts	65 Carrington St	Lot 21, DP 875161
WW-26	L	West Wallsend Co-Op	76a Carrington St 6 Withers St 8 Withers St	Lot 7, Section E, DP 2252 Lot 8, Section E, DP 2252 Lot 9, Section E, DP 2252
WW-31	L	West Wallsend Public School	49a Wallace St	Lot 5, Section J, DP 2252, Lot 6, Section J, DP 2252, Lot 7, Section J, DP 2252, Lot 8, Section J, DP 2252, Lot 9, Section J, DP 2252, Lot 10, Section J, DP 2252, Lot 11, Section J, DP 2252, Lot 12, Section J, DP 2252, Lot 1, DP 415746, Lot 1, DP 103681, Lot 1, DP 203314, Lot 1, DP 418805
WW-32	L	Miners' Memorial	49a Wallace St	Lot 8, Section J, DP 2252
WW-33	L	Presbyterian Church	48a Wallace St	Lot 1, Section O, DP 2253
WW-35	L	Baptist Church	49 Wallace St	Lot 15, Section K, DP 2252

WW-38	L	Former Northumberland Hotel	1 Hyndes St	Lot 11, DP 565278
WW-39	L	Cottage	53 Wilson St	Lot B, DP 315094
WW-40	L	Cottage	8 Laidley St	Lot B, DP 319636
WW-41	L	Museum Hotel	70 Wilson St	Lot 21, DP 700424
WW-46	L	Mt Sugarloaf and the Sugarloaf Range	Mt Sugarloaf Rd	Lot 1, DP 231108, Lot 2, DP 231108, Lot 21, DP 223395, Lot 1, DP 207238, Lot 1, DP 338999, Lot 121, DP 755262
WW-47	L	Mt Sugarloaf No 1 Colliery	Mt Sugarloaf Rd	Lot 7, DP 813135
WW-50	L	West Wallsend Cemetery	Cemetery Rd	Lots 980 and 981, DP 589701
WW-52	L	West Wallsend Valve House and Underground Reservoir	30a George Booth Dr, Estelville	Lot 1, DP 923587
WW-58	L	Anglican Church	11 Wallsend Rd	Lot 81, DP 1143907

### Whitebridge

WH-01	L	Whitebridge Cemetery	132a Dudley Rd	Lots 1697, 1698 and 1731, DP 755233
WH-02	L	House	105 Burwood Rd	Lot 7, DP 800730
WH-08	L	Railway Cutting and Bridge	Old Dudley Rd (also see RT-04)	
WH-09	L	Captain Bulls Garden	76 Bulls Garden Rd	Lot 10, DP 220823

### Wyee

WY-02	L	Wyee Channel	Extending north, from the Wyee Dam, passing under Summerhayes Rd	
-------	---	--------------	--	--

## Part 2 Potential archaeological sites other than of indigenous origins

Item No	Significance Item	Address	Property description
1	Wharf	Middle Camp Beach, Catherine Hill Bay	
2	Wallarah East Pit	Flowers Dr, Catherine Hill Bay	
3	Newstan Colliery	Fassifern Rd, Fassifern	

4		Lambton Colliery Redhead	Crown Land Redhead	Lot 2050, DP 823153
5		Arnos Bros, Quarry	Teralba	
6		North Burwood Colliery	Burwood Rd, Whitebridge	
7	L	Former mine site	180 Ross St, Green Point Reserve	Lot 2, DP 845516
AW-08	L	Railway Station cottage	34 Brisbane St, Awaba	
BN-01	L	Former John Darling Colliery—potential archaeological site	John Fisher Rd, Siloam Dr, John Fallins Cl, John Darling Ave	Lots 2–8, DP 1038830 Lots 1–5, 7–9, 12–14 and 16 and 17, 19–20, 22 and 23–25, DP 270530 Lots 201–207, 209–221, 223, 225 and 226, DP 1136649 Lots 1 and 2, DP 1153652 Lots 301–330, DP 1148102 Lots 501–505, DP 1156100 Lots 1 and 2, DP 1159382

## Schedule 5 Natural heritage items

(Dictionary)

### Part 1 Items relating to fossils

Item No	Significance	Item	Address	Property description
<b>Blackalls Park</b>				
BK-01	L	Fossil Tree Sections	Venetia Ave	Lot 6, DP 12604
BK-04	L	Fossil Tree Reserve	40 Aldon Cr	Reserve 38237
<b>Swansea Heads</b>				
NI	L	Numerous fossil tree stumps preserved in situ—remains of fossil forest	Off Lambton Pde	Adjacent to Reserve 88033 and DP 39981
<b>Tingira Heights</b>				
TH-01	S L	Nature Reserve and being permian fossil insect horizon	Burton Rd	Lot 180, DP 755233 and area from Belmont to Warners Bay depicted on Map prepared by OLEM Knight, titled <i>Permian Fossil Horizon Belmont—Warners Bay</i> 1949 (Records of the Australian Museum 1950)

## Part 2 Landmark of Aboriginal and European heritage significance supporting tree groups and individual trees

Item No	Significance Item	Address	Property description
LM-01	L	Pulbah Island	

## Schedule 6 Places or potential places of Aboriginal heritage significance

(Clause 50 and Dictionary)

### Part 1 Places of Aboriginal heritage significance

Item No	Significance Item	Address	Property description
	Various	All sites identified in the last edition of the National Parks and Wildlife Service's Aboriginal Sites Register available at the office of the Council	All property identified as an Aboriginal site in that Register

### Part 2 Potential places of Aboriginal heritage significance

Item No	Significance Item	Address	Property description
	Various	All sites, localities and landscapes identified in the <i>Lake Macquarie Aboriginal Heritage Study Report</i> available at the office of the Council	All properties identified as an Aboriginal site, locality or landscape as held in the records of Lake Macquarie City Council

## Schedule 7 Additional development allowed on certain land

(Clause 39)

Item No	Column 1	Column 2
1	(Repealed)	
2	Land at Wyee Point being Lot 48, DP 1035946.	Development for the purpose of eco-tourism facilities.
3	Land at Redhead, part of Lot 6001, DP 787875, Kalaroo Road, Redhead.	Long term residential occupation of movable dwellings.

4	Land at Wyee Point, incorporating the parcels created by Strata Plans Nos SP 33591, SP 34019, SP 51315, SP 52847, SP 53446, SP 58403, SP 63806, SP 63807, SP 64978, SP 65565, 77 Rutleys Road, Wyee Point.	Development providing permanent residential accommodation and other buildings, works and land uses predominantly providing a tourist destination as an integrated community containing tourist facilities and which 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.
5	Land in the vicinity of Rafferty's Road Cam's Wharf, shown in Deposited Plan Nos DP 270043, DP 285138, DP 285268, DP 285325, DP 285410, DP 285518, DP 285546, DP 285579, DP 285636, DP 285635, DP 285675, DP 286308.	Development predominantly providing a tourist destination as an integrated community containing tourist facilities and which 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.
6	Land at Cams Wharf, being Lot 1 DP 926581 and subdivided as Lots 321, 322, 323 and 324, DP 864517.	Erection of one dwelling house on each of the 4 lots within DP 864517.
7	So much of the land in the vicinity of Minmi Road, Cameron Park Drive and George Booth Drive, Edgeworth, in Lots 3 and 4, DP 1134639, Lot 4111, DP 1156756, Lot 2400, DP 1161455 and Lot 5400, DP 1168690 as is within Zone 7 (2) and is not the subject of acquisition by the Council.	<p>Development that results in cluster housing or tourist facilities (or both) on a site area consisting of land described in Column 1, but only if—</p> <p>(a) the ratio of the part (if any) of the site area occupied by tourist facilities to the whole of the site area does not exceed 0.5:1, and</p> <p>(b) not more than 2.5% of the site area is physically disturbed by the carrying out of development for the purpose of dwelling houses, and</p> <p>(c) the density of the dwelling houses (if any) must not exceed one dwelling house for every 5 hectares of the site area.</p> <p>If land is subdivided after any such development has been carried out on it, or if consent is granted for the carrying out of any such development on land at the same time as consent is given for subdivision of the land, the subdivision may be carried out only under the <a href="#">Strata Schemes (Freehold Development) Act 1973</a>, the <a href="#">Strata Schemes (Leasehold Development) Act 1986</a> or the <a href="#">Community Land Development Act 1989</a>.</p>

Any development that is allowed on land in the adjoining zone may be carried out, but only if the consent authority, before granting consent for any such development, has had regard to the guidelines and parameters adopted in the establishment of the relevant zone boundary (as evidenced by any environmental study, assessment or report prepared in relation to the creation of that zone boundary) and is satisfied—

- (a) that the land is suitable having regard to all likely environmental impacts, including slope, access, drainage, bushfire hazard, conservation value, geotechnical instability, erosion hazard, visual significance, and
- (b) that the development will not reduce the area of open space required to meet the needs of any population increase as a result of the development, and
- (c) that the development will not reduce the conservation value of the locality required for the protection of flora and fauna species, having regard to all matters, including perimeter effects and the impact of the development on the total area of land identified as relevant for conservation.

8 (Repealed)

9 Land at Mirrabooka, being Lot 17, DP 28068, Hillcrest Road, Mirrabooka. Subdivision into not more than 2 lots and the erection of a dwelling house on each lot so created.

10 Land at Mirrabooka being Lots 18 and 20, DP 28068, Hillcrest Road, Mirrabooka. Subdivision of each lot into not more than 2 lots and the erection of a dwelling house on each vacant lot so created.

11 Land at Morisset, Lot 9, DP 758707, Terrigal Street, Morisset. Development for the purpose of a mortuary.

12 Land at Cam's Wharf, being a resubdivision of Lot 2, DP 517892, subdivided as Lots 1, 2 and 3, DP 1022805, Cam's Wharf Road, Cam's Wharf. The erection of a dwelling house on each lot within DP 1022805.

13 Land at Morisset, Lot 401, DP 1001919. Development for the purpose of a retail market, being operated on Saturday and Sunday between the hours 7:30am to 6:00pm, with a gross floor area no greater than 10,300 square metres.

14	Land at Fairfax Road, Warners Bay, being so much of Lot 22, DP 1015155 as is within Zone 7 (2).	Subdivision into not more than 3 lots, but only if each of the existing dwellings is located on a separate lot and the remaining lot is of such a size and configuration, and in such a location, as to satisfy drainage requirements and is reserved for drainage.
----	---	---

15

Land at Trinity Point, Morisset Park as shown edged heavy black on the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 40) Site Identification Map*" deposited in the office of the Council of the City of Lake Macquarie.

Development for the purpose of dwellings, residential flat buildings, shops or commercial premises, but only if—

- (a) such dwellings, residential flat buildings, shops or commercial premises are constructed as part of a tourist resort, and
- (b) the total number of tourist and residential accommodation units within the tourist resort will not exceed 150, and
- (c) no more than half of such units are for permanent residential accommodation, and
- (d) any shops and commercial premises within the resort do not exceed a total floor area of 550m<sup>2</sup> and are of a nature and scale that reflect the needs of the tourist resort and local community, and
- (e) a transition of building heights is provided between the Lake and street blocks, and
- (f) a high quality urban form is achieved for all buildings, while maintaining satisfactory views from the adjoining land within Zone 2 (1) through to the Lake, and
- (g) view sharing is provided along the edges of the Lake, and
- (h) the height of a building on any land will not exceed the maximum height shown for the land on the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 40) Height of Buildings*" deposited in the office of the Council of the City of Lake Macquarie, and
- (i) the consent authority is satisfied that the proposed development achieves the following—
  - (i) appropriate height to plan width proportions that are compatible with the massing, street frontage and building forms within the locality,
  - (ii) building heights that complement the height of buildings on adjacent land,
  - (iii) active street frontages, and
- (j) the consent authority is satisfied, having regard to the nature of the tourist resort and



		<p>its relationship to surrounding land uses, that the granting of consent for any such development will not result in—</p> <p>(i) the dominant use of the land on which the development is carried out being for any purpose other than a tourist resort, or</p> <p>(ii) the uneven distribution, or clustering, of tourist and residential accommodation throughout the tourist resort, and</p> <p>(k) the consent authority is satisfied that the development will include an Aboriginal education centre to provide visitors and residents with information about Aboriginal cultural and heritage values and that the Aboriginal midden located on the southern foreshore of the Lake is given appropriate protection, and</p> <p>(l) any building has a minimum setback of 6m from the boundary of Lot 32, DP 1117408.</p>
16	<p>Land at Wangi Wangi, being part of Lot 101, DP 880089, known as Wangi power station, as shown lettered “B4” and edged heavy black on Sheet 1 of the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 33)</i>” deposited in the office of the Council.</p>	<p>Development for the purpose of bed and breakfast accommodation, bulky goods premises, home occupations, recreation facilities (indoor), research stations, residential accommodation, self-storage units, service stations, sewerage systems, storage premises, swimming pools, water recreation structures and water recycling facilities.</p>
17	<p>Land at the former Pasminco Cockle Creek Smelter site off Main Road, Boolaroo, being Lot 2, DP 1127713 and Lot 21, DP 251322, as shown edged heavy black and lettered “2 (2)” on the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 21)</i>”.</p>	<p>Subdivision into lots, each with an area of not less than 450 square metres, and the erection of a dwelling house on each lot so created.</p>
18	<p>Land at Glendale, being Lot 305, DP 1107690, Frederick Street.</p>	<p>Subdivision of land for purposes associated with the construction of the Glendale Wallsend Shared Pathway.</p>
19	<p>Land at Belmont, being part of Lot 20, DP 1046905, being part of 2A Maude Street, as shown edged heavy black on Sheet 1 of the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 65)</i>”.</p>	<p>Development for the purposes of seniors housing.</p>

		Development for the following purposes—
		(a) a highway service centre,
20	Land at Cooranbong, being part of Lot 4, DP 264501, as shown edged heavy black on Sheet 2 of the map marked “ <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 76)</i> ”.	(b) a shop with a floor area not exceeding 250 square metres, (c) subdivision into no more than 2 lots of any size that separate the highway service centre site and access ramps from adjoining rural and environmental land, not involving any dwelling.
		Development for the following purposes—
		(a) a highway service centre,
21	Land at Cooranbong, being part of Lot 211, DP 702166, as shown edged heavy black on Sheet 2 of the map marked “ <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 76)</i> ”.	(b) a shop with a floor area not exceeding 250 square metres, (c) subdivision into no more than 2 lots of any size that separate the highway service centre site and access ramps from adjoining rural and environmental land, not involving any dwelling.
22	Land at 52 and 60 Ada Street, Cardiff, being Lot 22 and part of Lot 21, DP 245962, as shown edged heavy black on Sheet 1 of the map marked “ <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 70)</i> ”.	Development for the purposes of medical centres, shops and associated car parks, but only if development for the purpose of shops does not exceed a gross floor area of 50m <sup>2</sup> .

**Note—**

Words and expressions used in relation to development on land in Zone B4 have the same meaning as they have in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

## Schedule 8 Land subject to special development requirements

(Clause 42 (1))

<b>Item No</b>	<b>Column 1</b>	<b>Column 2</b>
1	Land at Buttaba, being Lots 529-534, 536-551, 554-557, 571-607, 660-675 and 677-701, part of Pt Lot 703, Lots 714-723 and 757-759, DP 12507, Lot 7022, DP 584905, Lot 1, DP 727939, Lot 1, DP 1039389, part of Lot 101, DP 1125604 and part of Lot 102, DP 1128515, as shown edged heavy black on Sheet 11 of the map marked “ <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 52)</i> ”.	A development control plan must have been approved by the Council before consent is granted for any development. This development control plan must include recommendations about flora and fauna conservation, soil erosion and sedimentation control, drainage and water management, bushfire risk management, conservation of Aboriginal archaeology, urban design, subdivision pattern and development staging, and appropriate construction types and methods.

- 2 Land at Morisset Park, being Lot 1, DP 1107753, Lots 31, 32 and 34, DP 1117408, Lot 410, DP 1139690 and Lot 5, DP 1143366.
- A master plan must have been adopted by the Council before consent is granted for any development. This master plan must include recommendations about the following—
- (a) measures to assess, support, manage and conserve places and items of cultural heritage,
  - (b) measures to deliver a diversity of social and economic opportunities including employment,
  - (c) a strategy for the staged delivery of social infrastructure and services,
  - (d) measures that will achieve a balance between ecological, visual, scenic, cultural and heritage values and site sensitive development,
  - (e) the application of ESD principles,
  - (f) principles and a detailed strategy for the management of natural features, foreshore processes and hazards,
  - (g) measures to achieve development that is complementary to and reflects the character of surrounding urban developments,
  - (h) the location and design of development in a manner that complements the on-site and surrounding natural environment, including recommendations for the retention of vegetation,
  - (i) the precise location of development within different parts of the site to allow detailed site planning to achieve the most appropriate configuration of buildings, roads and other works to minimise potential environmental and visual impacts,
  - (j) providing for a diversity of built form that considers building height, form, massing, materials, colour and reflectivity, among others, in the design process with the intent of minimising impacts with surrounding developments and the lakeshore environment,
  - (k) meeting the objectives of the NSW Coastal Policy in planning and design across the site,

- (l) retaining the natural form of the foreshore of Lake Macquarie and providing for public access links to the adjoining Lake Macquarie State Recreation Area,
- (m) an urban form and structure that encourages walking, cycling and public transport use,
- (n) the location and design of roads and pedestrian/cycleway systems to maximise the opportunity for public access to foreshore areas.

For all land described opposite, the master plan referred to in item 2 above must include recommendations about the following additional matters—

- (a) location and design of development in a manner that allows site sensitive residential development that responds to existing vegetation values, ecological values and visual aspects of this part of the site,
- (b) location and design of developments in a manner that complements the on-site and surrounding natural environment, including retention of existing vegetation,
- (c) measures to locate and design development within this part of the site to conserve and enhance the visual, ecological and environmental values of the site, including recommendations for the retention of vegetation,
- (d) measures to provide for a diversity of built form that considers building height, form, massing, variable roof forms, materials, colour and reflectivity, among others, in the design and process and complements surrounding developments and the lakeshore environment,
- (e) measures to site, consolidate and/or cluster buildings to create built forms that maintain existing vegetation cover and minimise potential environmental and visual impacts.

3

Land at Morisset Park in Zone 2 (1), being Lot 1, DP 1107753, Lots 31, 32 and 34, DP 1117408, Lot 410, DP 1139690 and Lot 5, DP 1143366.

- |    |   |   |
|----|---|---|
| 4  | Land at Macquarie Hills, fronting Lawson Road, being Lots 101–131, DP 1081010, Lots 11–12, DP 1053624, Lots 201–228 and 230, DP 1132272 and Lots 301–330, DP 1162784.   | A development control plan applying only to the land must have been adopted by the Council before consent is granted for any development. This development control plan must address, to the satisfaction of the Council, habitat corridors, slope stability, drainage, water quality management, visual impact and access to the proposed development.   |
| 5  | Land at Bonnells Bay, fronting Fishery Point Road and Station Street, being Lot 43, DP 876821, Lots 100–133, DP 1171789 and Lot 7068, DP 1021263.   | A development control plan for the land must have been adopted by the Council before consent is granted for any development. The development control plan must address, to the satisfaction of the Council, flora and fauna conservation, water quality management, visual impact and site access and mobility.   |
| 5A | Land at Morisset, fronting Mandalong Road and Gimberts Road, being Lots 1, 2, 3, 4, 7, 9 and 11, DP 262159; Lots 11 and 12, DP 777034; Lots 1, 2, 3 and 5, DP 10720; Lots 35, 36 and 37, DP 9632, and Lot 2, DP 529914, as shown edged heavy black on the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 29)</i> ". | Provisions in a development control plan specifically applying to the land, addressing the following matters, must have been adopted by the Council before consent is granted to the carrying out of any development on the land— <ul style="list-style-type: none"><li>(a) arrangements for water, wastewater and stormwater that minimize the impact of development on that part of the land in Zone 7 (1) Conservation (Primary) Zone,</li><li>(b) measures to preserve native vegetation on that part of the land in Zone 7 (1) Conservation (Primary) Zone),</li><li>(c) bush fire risk management measures,</li><li>(d) arrangements for site access, having regard to general traffic, potential bus routes, heavy vehicles, cyclists and pedestrians,</li><li>(e) measures to facilitate a native fauna crossing point in the section of Gimberts Road adjacent to Lot 4, DP 262159,</li><li>(f) an assessment of the likely visual impact of future industrial development on the F3 Freeway and measures to mitigate any adverse impact,</li><li>(g) a landscape master plan for that part of the land in Zone 4 (2) Industrial (General) Zone or Zone 4 (3) Industrial (Urban Services) Zone,</li><li>(h) a street representation of proposed development fronting Mandalong Road.</li></ul> |

6

Land at Dora Creek, being Lot 3, DP 228684, Lot 5001, DP 585398, Lots 1–24, DP 9149 and Lot 1, DP 134235, as shown edged heavy black on Sheet 1 of the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 36)*”

A development control plan for the land must have been prepared before consent is granted for any development. The development control plan must include a structure plan for the site and provisions in respect of, but not limited to—

- (a) desired future character, and
- (b) preferred lot and dwelling types, and
- (c) subdivision and street design to reflect identified vistas, vegetated corridors and street tree planting, and
- (d) restoration and reuse of the existing homestead, and
- (e) pedestrian and cycleway links within the site and links to Dora Creek rail station and town centre, and
- (f) protection of environmentally sensitive areas and adjacent SEPP 14 wetland, and
- (g) location of suitable open space, and
- (h) traffic network, and
- (i) built form controls (setbacks, fencing elements, building facades, articulation of corner dwellings etc), and
- (j) water sensitive urban design measures, and
- (k) preparation of Mosquito Management Plan, and
- (l) preparation of a Travel Demand Management Strategy.

- 7
- Land at Morisset, being—
- (a) land in the vicinity of Gimberts Road, Freemans Drive, Stockton and Eyre Streets, Goodwins Road and Coorumbung, Awaba, Wellings, Kahibah and Wyong Streets and a certain unnamed road, as shown edged heavy black and lettered “1 (2)”, “2 (1)”, “2 (2)”, “3 (1)”, “6 (2)” or “7 (1)” on Sheet 1 of the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 41)*”, and
  - (b) land in the vicinity of Terrigal, Awaba and Wamberal Streets, Ettalong Road and a certain unnamed road, as shown edged heavy black and lettered “2 (1)” on Sheet 2 of that map.
- 8
- Land off Highland Avenue and Freemans Drive, Cooranbong, being part Lot 3, DP 622775, part Lot 12, DP 1019060, Lot 13, DP 1019060, Lots 5 and 6, DP 21052, part Lot 1, DP 119564, part Lot 9, DP 391391 and part Lot 17, DP 654841, as shown edged heavy black on Sheet 1 of the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 42)*”.
- Provisions in a development control plan specifically applying to the land must have been prepared by the Council before consent is granted to the carrying out of any development on the land. The provisions are to include, but are not limited to, the following matters—
- (a) conceptual street layout, including pedestrian and cycle paths,
  - (b) location and staging of stormwater management facilities, including detention basins, to minimise impact on land in Zone 7 (1) Conservation (Primary) Zone,
  - (c) location and staging of water and wastewater infrastructure, including mains and pump stations, to minimise impact on land in Zone 7 (1) Conservation (Primary) Zone,
  - (d) preservation and management of native vegetation on that part of the land in Zone 7 (1) Conservation (Primary) Zone,
  - (e) bushfire risk management,
  - (f) detailed design parameters for road construction in a section of Awaba Street adjacent to Lot 75, DP 755242, to facilitate a native fauna crossing point,
  - (g) a landscape master plan for residential areas,
  - (h) overall staging of the development.
- Provisions in a development control plan specifically applying to the land, including the following matters, must have been adopted by the Council before consent is granted to the carrying out of any development on the land—
- (a) conceptual street layout, including a single access off Freemans Drive, Cooranbong and access off Highland Avenue, Cooranbong,
  - (b) cycleway and pedestrian linkages,
  - (c) management of native vegetation in the land in Zone 7 (3) Environmental (General) Zone and riparian buffers,
  - (d) water quality management,
  - (e) bushfire risk management.

9

Land at Wangi Wangi, being Lot 101, DP 880089, known as Wangi power station, as shown edged heavy black on Sheets 1 and 2 of the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 33)*" deposited in the office of the Council.

A development control plan for the land, providing for the following matters, must have been adopted by the Council before consent is granted for any development—

- (a) mixed use development and a land use mix that takes account of Wangi Wangi local centre,
- (b) flora, fauna and vegetation corridors,
- (c) visual impacts, view corridors and design principles for development,
- (d) identification of any recreation, community and social facilities on the land,
- (e) conservation and interpretation of the heritage significance of the land in accordance with Part 6 and any conservation management plan prepared by the Council,
- (f) measures to reduce any potential conflicts with adjoining land uses, including Myuna colliery,
- (g) traffic, pedestrian and cycle networks,
- (h) staging and sequencing of the development of the land within Zone 2 (2),
- (i) identification of landscape areas for revegetation,
- (j) sustainable stormwater management, including water re-use,
- (k) waste management and demolition,
- (l) 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.



- 10 Land at the former Pasmenco Cockle Creek Smelter site and the former Incitec Pivot Fertilizer site at Boolaroo, being—
- (a) Lot 2, DP 1127713 and Lot 21, DP 251322, as shown edged heavy black and lettered “2 (2)” and “3 (2)” on the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 21)*”, and
  - (b) Part Lot 1, DP 523781, Part Lot 2, DP 1127713 and Part Lot 1, DP 225720, lettered “2 (1)”, “2 (2)”, “B4” and “7 (2)” on the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 57)*”, and
  - (c) Part of Lot 1, DP 225720, 1A First Street, Boolaroo, as shown edged heavy black and lettered “2 (1)” on the map marked “*Lake Macquarie Local Environmental Plan 2004 (Amendment No 83)*”.
- A development control plan must have been approved by the Council before consent is granted to the carrying out of any development on the land.
- The development control plan must address, to the satisfaction of the Council, the following matters—
- (a) site access and mobility,
  - (b) connectivity (for vehicles, pedestrians and cyclists) with adjoining areas,
  - (c) urban design outcomes,
  - (d) maximum floor space ratios for commercial areas,
  - (e) noise attenuation,
  - (f) heritage conservation and interpretation,
  - (g) management of open space,
  - (h) landscaping,
  - (i) the public domain,
  - (j) stormwater management,
  - (k) the visual impact of the proposed development.

Despite any other provision of this Plan, the requirement for a development control plan specified in this item does not apply in relation to the determination of a development application that was made, but not finally determined, before the commencement of [Lake Macquarie Local Environmental Plan 2004 \(Amendment No 21\)](#).

11

Land at Wyee, being land in the vicinity of Bushells Ridge, Gorokan and Hue Hue Roads, as shown edged heavy black and lettered "2 (1)", "2 (2)", "5", "6 (1)", "7 (1)", "7 (3)" or "7 (5)" on Sheet 1 of the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 61)*".

A development control plan for the land must have been approved by the Council before development consent is granted for any development. The provisions of the development control plan are to include, but are not limited to, the following matters—

- (a) a staging plan for the timely and efficient release of urban land-making provision for necessary infrastructure and sequencing,
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- (d) a network of passive and active recreational areas,
- (e) stormwater and water quality management controls,
- (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
- (g) detailed urban design controls for significant development sites,
- (h) measures to encourage higher density living around transport, open space and service nodes,
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provisions for appropriate traffic management facilities and parking.

12

Land at Wyee Point, known as the Ramsgate Estate "paper subdivision", as shown edged heavy black and lettered "2 (1)", "7 (1)" and "7 (5)" on Sheet 3 of the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 50)*".

A development control plan for the land must have been prepared before development consent is granted for any development. The provisions of the development control plan are to include, but are not limited to, the following matters—

- (a) a staging plan for the timely and efficient release of urban land-making provision for necessary infrastructure and sequencing,
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
- (d) a network of passive and active recreational areas,
- (e) stormwater and water quality management controls,
- (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
- (g) detailed urban design controls for significant development sites,
- (h) measures to encourage higher density living around transport, open space and service nodes,
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
- (j) suitably located public facilities and services, including provisions for appropriate traffic management facilities and parking.

13

Land at Edgeworth in the vicinity of Minmi Road and Transfield Avenue, being Lot 1, DP 900356, Lot 1, DP 900357, Lot 111, DP 665948, Lot 1, DP 921714, Lot 1, DP 921545, Lot 27, DP 202567, Lots 1 and 2, DP 250063, part of Transfield Avenue and adjacent road reserves, as shown edged heavy black and lettered "2 (1)" and "7 (1)" on the map marked "*Lake Macquarie Local Environmental Plan 2004 (Amendment No 59)*".

A development control plan for the land must have been approved by the Council before development consent is granted for any development. The provisions of the development control plan are to include, but are not limited to, the following matters—

- (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 that—
  - (i) shows the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists, and
  - (ii) provides for an arterial road linking Frederick street with Minmi Road at Edgeworth,
- (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) an assessment of the impact of development on flora and fauna and measures to mitigate any adverse impact,
- (e) a network of passive and active recreational areas,
- (f) stormwater and water quality management controls,
- (g) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
- (h) detailed urban design controls for significant development sites,
- (i) measures to encourage higher density living around transport, open space and service nodes.

## Schedule 9 Consent to development subject to special requirements

(Clauses 42 (2))

Item No	Column 1	Column 2
1	Land at Warners Bay, being Lot 1, DP 204920, Myles Avenue, Warners Bay.	Provision for future vehicle and pedestrian access through Hillsborough Road, Warners Bay in a manner that is satisfactory to the Council.
2	Land at Cameron Park, being Lots 105-109 and 112-113 and 118, DP 1016351, Lots 202-206 and 210-216, DP 1070348, Lots 1151-1152, DP 1070457, Lot 789, DP 1071617, Lots 304, 308-312, 317-320, 326-329 and 336, DP 1089554, Lot 100, DP 1102166, Lot 1, DP 1113107, SP 79436, Lots 103-104, DP 1049681, SP 79911, Lot 3, DP 1128456, Lot 3300, DP 1134814, Lots 2000 and 2001, DP 1144842, Lot 3000, DP 1141675 and Lots 3001 and 3002, DP 1156454, Stenhouse Drive, Kalinya Close, Farragher Way, Billbrooke Close, Cameron Park Drive, Cameron Park, being land in Zone 4 (1).	<p>All stormwater must be detained and treated within the site boundaries.</p> <p>There must be no direct vehicular access to or egress from the site from or to the F3 Freeway, George Booth Drive or the Newcastle Link Road.</p> <p>There must be no direct vehicular or pedestrian access to Cameron Park Drive from lots fronting Cameron Park Drive.</p> <p>A vegetation buffer is to be established along the adjoining F3 Freeway, the Newcastle Link Road and Cameron Park Drive to the satisfaction of the Council.</p> <p>Any proposed residential development—</p> <p>(a) will not, or is unlikely to, be adversely affected by noise, visual or odour impacts from the adjoining mining and petroleum production operation, and</p> <p>(b) incorporates all practical mitigation measures for the management of noise, visual and odour impacts from the adjoining mining and petroleum production operation.</p>
3	Land at Wangi Wangi, being Lot 101, DP 880089, known as Wangi power station, as shown edged heavy black on Sheets 1 and 2 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 33)</i> " deposited in the office of the Council.	<p>The gross floor area of all buildings that will be used for retail development (that is, retail premises, shops and shop top housing) will not exceed 5,000 square metres.</p> <p>The remaining gross floor area (that is, the floor area other than the area used for retail development) is to be used for a combination of other uses permitted on the land, other than retail development.</p>

	<p>Land at the former Pasminco Cockle Creek Smelter site and the former Incitec Pivot Fertilizer site at Boolaroo, being—</p> <p>(a) Lot 2, DP 1127713 and Lot 21, DP 251322, as shown edged heavy black and lettered “2 (2)” and “3 (2)” on the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 21)</i>”, and</p> <p>(b) Part Lot 1, DP 523781, Lot 2, DP 1127713 and Part Lot 1, DP 225720, lettered “2 (1)”, “2 (2)”, “B4”, “4 (2)” and “7 (2)” on the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 57)</i>”, and</p> <p>(c) Part of Lot 1, DP 225720, 1A First Street, Boolaroo, as shown edged heavy black and lettered “2 (1)” on the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 83)</i>”.</p>	
4		<p>Provision for future vehicle access from Munibung Road, Cardiff, through to TC Frith Avenue, Boolaroo.</p> <p>There must be no significant land use conflicts between the proposed development and the ongoing remediation of the remainder of the site.</p>
5	<p>Land at Cardiff, being Lot 11, Section 12, DP 2472, 13 Henry Street.</p>	<p>Provision for future vehicular access to the site.</p>
6	<p>Land at Ada Street, Cardiff, being Lots 1 and 2, DP 788892, as shown edged heavy black and lettered “2 (1)” and “2 (2)” on the map marked “<i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 46)</i>”.</p>	<p>The existing on-site stormwater detention volume plus any additional storage volume required by the development must be detained within the site boundaries, unless an alternative location is approved by Council.</p>

## Schedule 10 Development by public authorities

(Clause 10)

### 1 Rail transport

The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of—

- (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
- (b) the erection within the limits of a railway station of buildings for any purpose, but excluding—
  - (i) the construction of new railways, railway stations and bridges over roads, and
  - (ii) the erection, reconstruction and alteration of buildings for purposes other than

railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and

- (iii) the formation or alteration of any means of access to a road, and
- (iv) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.

## **2 Water, sewerage, drainage, electricity and gas**

The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings—

- (a) development of any description at or below the surface of the ground,
- (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the appointed day of any plant or other structures or erections required in connection with the station or substation,
- (c) the installation or erection of any plant or other structures or erections by way of addition to, or replacement or extension of, plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housing of stone, concrete or brickworks,
- (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
- (e) the erection of service reservoirs on land acquired or in the process of being acquired for the purpose before the appointed day, provided reasonable notice of the proposed erection is given to the Council,
- (f) routine maintenance and emergency works,
- (g) any other development, except—
  - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings, so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road.

### **3 River transport**

The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof, or
- (b) the formation or alteration of any means of access to a road.

### **4 Air transport**

The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

### **5 Road transport**

The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by roads, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

### **6 Mines**

The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purpose of a mine, except—

- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or



(b) the formation of any means of access to a road.

## **7 Roads**

The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.

## **8 Forestry**

The carrying out of any forestry work by the Forestry Commission, a School Forest Trust or Community Forest Authorities empowered under relevant Acts to undertake afforestation, roading, protection, cutting and marketing of timber, and other forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.

## **9 Rural land protection**

The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purpose, or
- (b) any development designed to change the use or purpose of any such reserve.

## **10 Water resources**

The carrying out or causing to be carried out by the Council when engaged in flood mitigation works or by the Department of Infrastructure, Planning and Natural Resources of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Farm Water Supplies Act 1946*, the *Rivers and Foreshores Improvement Act 1948* or the *Water Management Act 2000*, except—

- (a) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## **Schedule 11 Restricted development**

(Clause 42A)

<b>Item No</b>	<b>Column 1</b>	<b>Column 2</b>
----------------	-----------------	-----------------

1	Land at Cardiff South, being part of Lot 63, DP 570307, 1A Water Street, as shown edged heavy black on Sheet 1 of the map marked " <i>Lake Macquarie Local Environmental Plan 2004 (Amendment No 3)</i> ".	Children's playground associated with the adjoining school.
2	Land at Macquarie Hills, being Lot 41, DP 1132840, 127 Macquarie Road	Car parking (and any associated works, including retaining walls, landscaping and fencing) associated with the adjoining church.

## Dictionary

(Clause 7 (1))

**Acid Sulfate Soil Manual** means the document with that title as last adopted by the Director-General.

**acid sulfate soils** means actual or potential acid sulfate soils, as defined in the *Acid Sulfate Soils Assessment Manual*.

**Acid Sulfate Soils Planning Maps** means the series of maps marked "*Lake Macquarie Local Environmental Plan 2004—Acid Sulfate Soils Planning Maps*" kept in the office of the Council.

**advertising structure** means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

**agriculture** means—

- (a) the production of crops or fodder, or
- (b) the keeping or breeding of cattle, horses or birds, or
- (c) horticulture including fruit, vegetable and flower crop production, or
- (d) the grazing of livestock.

**airline terminal** means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an airport or an aerodrome.

**airport** means a place for the arrival and departure of aircraft by air and may include buildings associated with aircraft storage, maintenance and control.

**animal establishment** means a place used for the boarding, breeding, keeping or training of animals for business purposes, and includes a riding school.

**appointed day** means the day on which this plan commences.

**aquaculture** means the commercial breeding, hatching, rearing or cultivation of marine, estuarine or fresh water organisms, including aquatic plants or animals such as fin-fish, crustaceans, molluscs or other aquatic invertebrates.

**archaeological site** means a site of one or more relics.

**area** has the same meaning as in the [Local Government Act 1993](#).

**Australian Height Datum (AHD)**, in relation to heights, means the level of the control point approved by the Surveyor-General for measuring the heights for the purpose of establishing Australian Height Datum.

**Average Recurrence Interval (ARI)** means the average period between the recurrence of a storm event of a given rainfall intensity. The ARI represents a statistical probability. For example, a 10-year ARI indicates an average of 10 events over a 100-year period.

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

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

**battle-axe lot** means a lot located behind another, with vehicular access from the street via an access handle.

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

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

**boarding house** means a building—

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principle place of residence for 3 months or more, and
- (c) that generally has shared facilities, such as a common bathroom, kitchen or laundry, and
- (d) that has rooms that accommodate one or more lodgers,

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

**bottle shop** means premises to which a packaged liquor licence applies under the [Liquor Act 2007](#).

**brothel** means a building or place regularly used for the purposes of prostitution.

**building frontage** is the facade of the building that faces a street.

**building products warehouse and showroom** means a building used predominantly for warehousing or distribution of building materials, supplies, plumbing supplies, air-conditioning systems, swimming pools and the like, with an ancillary component for the sale of such goods, materials or supplies by retail or auction.

**bulk store** means a building or place used for the bulk storage of goods where the goods stored, or to

be stored, are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

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

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

but does not include a building or place used for the sale of foodstuffs or clothing.

**bus shelter** means a small-scale structure or place used to pick up or set down passengers travelling by bus.

**bus station** means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

**bushfire hazard reduction work** means the reduction or modification (by controlled burning or by mechanical, chemical or manual means) of material that constitutes a bushfire hazard.

**bushfire prone land** has the same meaning as in the Act.

**bushland regeneration** means—

- (a) the removal of environmental weeds, and the rehabilitation of a degraded native vegetation community or ecosystem, using methods that do not damage the native vegetation or disturb the natural soil surface or hydrology, and
- (b) the planting of native vegetation that is indigenous to the site to establish a healthy population of that vegetation.

**car parking facility** means a building or place used for parking vehicles, whether operated for gain or not, and any manoeuvring space and access to that building or place, but does not include car parking ancillary to a permissible use.

**car repair station** means a building or place used for the purpose of carrying out repairs and/or detailing including washing, to motor vehicles, caravans, boats or agricultural machinery and the like, not being—

- (a) body building, or
- (b) panel beating which involves dismantling, or
- (c) spray painting other than of a minor nature.

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

**cemetery** or **crematorium** means a building or place for the burying or cremation of deceased people or animals and may include a chapel, temple or other religious place for conducting funeral services.

**child care centre** means a building or place, whether operated for gain or not, which is used for the purpose of educating, supervising or caring for children (whether or not any of the children are related to the owner or operator), where—

- (a) there are 6 or more children under 6 years of age who do not attend a government school or a registered non-government school within the meaning of the [Education Act 1990](#), and
- (b) the building or place does not provide residential care for any of the children (other than those related to the owner or operator),

and which may operate before and after school hours as an out of school hours care centre for children over 6 years of age.

**clear** includes—

- (a) kill, destroy, poison, ringbark, uproot or burn a tree or native vegetation, or
- (b) cut down, fell, thin, log or remove a tree or native vegetation, or
- (c) underscrub a tree or native vegetation, or
- (d) sever or lop a branch, a limb, a stem or a trunk of a tree or native vegetation, or
- (e) damage a tree or native vegetation in any other way,

or cause or permit any of the above.

**club** means the premises to which a club licence relates under the [Liquor Act 2007](#).

**commercial mooring** has the same meaning as in the [Lake Macquarie Mooring Management Plan](#) prepared and adopted from time to time by the Maritime Authority of NSW.

**commercial premises** means a building or place used as an office or for other business or commercial purposes but, in the Table in Part 3, does not include a building or place elsewhere specifically defined in this clause.

**community facility** means a building or place owned or controlled by a public authority or non-profit community organisation, which provides for the physical, social, cultural or intellectual development, welfare or safety of the local community.

**community land** has the same meaning as in the [Local Government Act 1993](#).

**complying development** is identified in clause 9.

**conservation management plan** means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes 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.

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

**demolish** a heritage item, or a building, work, archaeological site, tree or place in a heritage conservation area, means wholly or partly destroy, dismantle or deface the item or the building, work,

archaeological site, tree or place.

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

**depot** means a building or place used for the storage (but not sale) and maintenance of plant, machinery, goods or materials used or intended to be used by the owner or occupier of the building or place but, in the Table in Part 3, does not include a building or place elsewhere defined in this Dictionary.

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

**DP high water mark** for any land is the mean high water mark shown on the current plan (within the meaning of the [Conveyancing Act 1919](#)) for the land.

**drainage** means works carried out for the purpose of drainage which are not incidental or ancillary to development for which consent has been granted.

**dual occupancy—attached** means two dwellings in a single building on a single allotment of land.

**dual occupancy—detached** means two detached dwellings on a single allotment of land.

**dwelling** means a room or a 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 one but not more than one dwelling.

**dwelling house—exhibition** means a dwelling house used for the purpose of displaying to potential customers, the dwelling house, its contents and its surrounds for a limited period.

**earthworks** means a work involving the addition or removal of any solid matter on, to or from land, or any other work that will significantly alter—

- (a) the level of the land from the existing ground level, or
- (b) the character of the surface of that land, or
- (c) the drainage of the land.

**eco-tourism facility** means a building or place used primarily for tourist accommodation or recreation, or both, and may include holiday cabins, camp or caravan sites, where the total number of beds does not exceed 20, that is in a natural or rural setting and may involve education and interpretation of the natural environment, and does not have a deleterious effect on the ecology of its location.

**educational establishment** means a building used as a pre-school, school or tertiary institution within the meaning of a State or Commonwealth Act, whether or not accommodation for staff or students is provided, or a gallery or museum but, in the Table in Part 3, does not include a building or place elsewhere defined.

**emergency services facility** means a building or place used for the provision of police, fire and ambulance services or the like, and may include training rooms and administration buildings, and buildings or places used to store, service or repair vehicles or equipment.

**energy generation works** means a building or place used primarily for the purpose of making or generating forms of energy.

**entertainment facility** means a building or place used for the purpose of sport, entertainment, exhibitions, displays or cultural events, and includes—

- (a) sports stadiums, conference facilities, function centres, showgrounds, racecourses and the like, and
- (b) theatres, cinemas, music halls, concert halls and the like.

**environmental facility** means a structure or work that provides for—

- (a) nature study or display facilities, such as walking trails, board walks, observation decks, bird hides or the like, or
- (b) environmental management and restoration, such as bush restoration, wetland restoration, erosion and run off prevention works, dune restoration or the like,

and may include ancillary kiosks or cafes.

**ESD**—see principles of ecologically sustainable development.

**exempt development** is identified in clause 8.

**extractive industry** means—

- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land on which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

**extractive material** means sand, gravel, clay, turf, soil, rock, stone or similar substances.

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

**flood prone land** means land affected by the 1% Average Recurrence Interval (ARI).

**foreshore area** means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody.

**foreshore building line** means a foreshore building line fixed under clause 7 of the [Environmental Planning and Assessment Model Provisions 1980](#), as adopted by clause 22.

**foreshore development** means a boatshed, jetty, slipway, boat ramp, in-ground swimming pool, inclinor, landscaping, barbecues or other similar structures.

**forestry** includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation, otherwise than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

**front building setback** means the minimum distance from a lot's frontage to which the outermost projection of a structure may be built on the lot, as specified in Part 3 of *Lake Macquarie Development Control Plan No 1—Principles of Development*.

**function centre** means a building or place used to hold conferences, wedding receptions and the like, and may include a restaurant or cafe.

**general store** means a building or place for the retail sale of convenience goods that may include the facilities of a post office and/or for the sale of take-away food and that has a maximum gross floor area of 75 square metres but, in the Table in Part 3, does not include a building or place elsewhere defined.

**gross floor area** means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1,400 millimetres above each floor level) excluding—

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) car parking needed to meet any requirements of the Council and any internal access to such parking, and
- (d) space for the loading and unloading of goods.

**group home** has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

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

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

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

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

**height** in relation to a building or structure, means the distance measured vertically from the topmost element of the building or structure to the natural ground level immediately below that point.

**helipad** means an area or place, whether or not open to public use, set apart for the taking off and



landing of helicopters.

**heliport** means an area or place open to public use that is licensed by the Commonwealth for the taking off and landing of helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

**heritage conservation area** means an area of land that is shown edged by a heavy black broken line on the map, and includes buildings, works, archaeological sites, trees and places situated on or within the land.

**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or a building, work, archaeological site, tree or place within a heritage conservation area, and an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

**heritage item** means a building, work, archaeological site, potential archaeological site or place—

- (a) the site and nature of which is described in Schedule 4, 5 or 6, and
- (b) that is more particularly specified in an inventory of heritage items available at the office of the Council, and

in the case of an item described in Schedule 6 as a place or potential place of Aboriginal heritage significance, the item includes any component, fixture or fitting that is attached to it.

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

**high technology industry** means an enterprise which has as its primary function the manufacture, development, production, processing or assembly of, or research into, any of the following—

- (a) electronic and micro-electronic systems, goods and components,
- (b) information technology, computer software and hardware,
- (c) instrumentation and instruments,
- (d) biological, pharmaceutical, medical or paramedical systems, goods and components,
- (e) other goods, systems and components intended for use in science and technology.

**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 business** means a business, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because 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 adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

but does not include bed and breakfast accommodation, home occupation or a brothel.

**home industry** means an industrial activity, whether or not involving the sale of items online, carried on in a dwelling, or in a building ancillary to a dwelling, by 1 or more permanent residents of the dwelling and not involving the following—

- (a) the employment of more than 2 persons other than the residents,
- (b) interference with the amenity of the neighbourhood because 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 adjacent premises or from a public place, of unsightly matter,
- (d) the exhibition of signage, other than a business identification sign,
- (e) the retail sale of, or the exposure or offer for retail sale of, items, whether goods or materials, not produced at the dwelling or building, other than by online retailing,

but does not include bed and breakfast accommodation or a brothel.

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

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

the dwelling), or

(e) the sale of items (whether goods or materials), or the exposure to offer for sale of items, by retail, but does not include bed and breakfast accommodation or a brothel.

**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, care for people with developmental disabilities, psychiatric care or counselling and 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—

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used by hospital staff or health care workers, and whether or not any such use is a commercial use.

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

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

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

**industry** means the manufacturing, assembling, altering, formulating, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up or adapting of any goods or any articles or any part of a good or an article for trade or sale or gain but, in the Table in Part 3, does not include any other use specifically defined in this Dictionary.

**intensive agriculture** means a form of agriculture, involving—

- (a) intensive livestock enterprises such as piggeries, cattle feed lots or poultry farms, which requires particular treatment or practices for the management of wastes (including faeces or other by-products), or
- (b) other intensive rural production enterprises such as hydroponic crop production, glass house fruit, flowers and vegetables, and the like.

**junk yard** means land used—

- (a) for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles or other scrap materials or goods, or
- (b) for the collection, dismantling, storage, salvaging or abandonment of vehicles or machinery, or
- (c) for the sale of parts derived from those vehicles or machinery.

**Lake** means the lake known as Lake Macquarie.

**Lake Macquarie Development Control Plan No 1—Principles of Development** means *Lake Macquarie Development Control Plan No 1—Principles of Development—Revision 01* as adopted by the Council on 30 January 2006.

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

**large-scale commercial premises** means premises, or part of premises, that have a gross floor area of not less than 500 square metres, and are used for the purpose of an office, or any other commercial or business purpose, by a single occupancy, but does not include any other premises defined in this Dictionary.

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

**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other flammable liquid.

**maintenance** in Part 6 (Heritage provisions) means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or exotic species and artificial landscapes or technology.

**manufactured home estate** has the same meaning as it has in [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 3, Part 8.

**marina** means a pontoon, jetty, pier or similar structure operated for commercial gain and designed or adapted to provide moorings for boats used primarily for pleasure or recreation and may include ancillary works such as slipways, facilities for the hire, repair and maintenance of boats and the provision of fuel, accessories and parts for boats and foodstuff.

**medical centre** means a building or place used as an outpatient day surgery, health centre, pathology laboratory or collection centre, diagnostic centre or the like.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef on, in or by which any operation is carried on for or in connection with the purpose of obtaining any metal, mineral or gas by any mode or method and includes any place on which any product of the mining there is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**mixed use development** means development that comprises a combination of two or more of the following uses: dwellings; accommodation for tourists; shops; commercial premises; recreation facilities; restaurants; bottle shops.

**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed there.

**multiple dwelling housing** means three or more dwellings, not being a residential flat building, and may include villas, town houses and terraces.

**native vegetation** has the same meaning as it has in the [Native Vegetation Act 2003](#), including scrub that is native vegetation but does not include any tree, sapling or shrub.

**natural ground level** means the ground level of a site before any development has been carried out that alters the naturally occurring height or contours of the site.

**natural heritage** means—

- (a) natural features consisting of physical and biological formations or groups of such formations, which are of identifiable value from the aesthetic or scientific point of view, or
- (b) geological and physiographical formations and delineated areas, which constitute the habitat of threatened species of animals and plants of identifiable value from the point of view of science or conservation, or
- (c) natural sites or delineated natural areas of identifiable value from the point of view of science, conservation or natural beauty regardless of evidence of human intervention.

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

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

**operational land** has the same meaning as in the [Local Government Act 1993](#).

**place of Aboriginal heritage significance** means—

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include heritage items (refer to Schedule 6) 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 that may include natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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

events, instruction or religious training.

**potential archaeological site** means a site—

- (a) that is specified in Schedule 4 or 5 and described in that schedule as a potential archaeological site and shown on the map, or
- (b) that, in the opinion of the Council, has the potential to be an archaeological site even if it is not so specified.

**potential place of Aboriginal heritage significance** means a place—

- (a) that is specified in Schedule 6 as a potential place of Aboriginal heritage significance, or
- (b) that, in the opinion of the Council, has the potential to have Aboriginal heritage significance, even if it is not so specified.

**principles of ecologically sustainable development** means the following statements of principle—

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs—

- (a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by—
  - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
  - (ii) an assessment of the risk-weighted consequences of various options,
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.
- (d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as—
  - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
  - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
  - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those

best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

**professional consulting rooms** means a room or a number of rooms forming either the whole or part of, attached to or within the curtilage of, an existing dwelling house and used by not more than 3 persons providing medical services, or similar health care services, and who employ not more than 3 employees connected with those particular services.

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

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

**public utility undertaking** means any of the following undertakings carried on or permitted or suffered 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.

**recreation facility** means a building or place used for indoor recreation, whether used for the purpose of gain or not but, in the Table in Part 3, does not include any other building specifically defined in this Dictionary or used for a land use so defined.

**relic** means—

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old, relating to the use or settlement, not being Aboriginal habitation, of Lake Macquarie City local government area and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of that area, or
- (c) any deposit, object or material evidence of any age relating to the existence or evolution of fauna and flora species and geology and geomorphology.

**residential flat building** means a building that comprises or includes—

- (a) 3 or more storeys (not including levels below natural ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings,

but does not include a Class 1a building or Class 1b building within the meaning of the *Building Code of Australia*.

**Note—**

Class 1a and Class 1b buildings are commonly referred to as “town houses” or “villas” where the dwelling units are side by side, rather than on top of each other.

**restaurant or cafe** means a building or place, principally providing food to seated paying customers and may include take-away, footway dining, kiosk and drive-through services.

**restricted premises** means premises (other than a newsagency or pharmacy) where—

- (a) publications classified Category 1 restricted, Category 2 restricted or RC under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth are shown, exhibited, displayed, sold or otherwise made accessible or available to the public, or
- (b) a business to which section 578E of the *Crimes Act 1900* applies is conducted.

**retail plant nursery** means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are sold there.

**road** means a public thoroughfare used for the passage of vehicles, pedestrians or animals and includes—

- (a) the airspace above the surface of the road, and
- (b) the soil beneath the surface of the road, and
- (c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**rural industry** means the handling, treating, processing or packing of primary products and/or the servicing in a workshop of plant or equipment used for rural purposes.

**sawmill** means a mill handling, cutting and processing timber from logs or baulks.

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

- (a) a residential care facility, or
  - (b) a hostel, or
  - (c) a group of self-contained dwellings, or
  - (d) a combination of these,
- and that is, or is intended to be, used permanently for—
- (e) seniors or people who have a disability, or
  - (f) people who live in the same household with seniors or people who have a disability, or
  - (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,



but does not include a hospital.

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil, gas or other petroleum products, whether or not the building or place is also used for one or more of the following purposes—

- (a) the sale by retail of spare parts and accessories for motor vehicles, or the hiring of trailers or other vehicles,
- (b) washing and greasing of motor vehicles,
- (c) installation of accessories,
- (d) repairing and servicing of motor vehicles (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration),
- (e) a shop.

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

**shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, food, goods, merchandise or materials but, in the Table in Part 3, does not include any other building or place specifically defined in this Dictionary.

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

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

but does not include traffic signs or traffic control facilities.

**site area** means the area of land to which an application for consent under the Act relates, exclusive of any land on which the development to which the application relates is not permitted by or under this plan.

**small lot housing** means—

- (a) a single dwelling on an allotment of land with an area of not less than 300 square metres but not more than 450 square metres in Zone 2 (1), or
- (b) a single dwelling on an allotment of land with an area of not less than 200 square metres but not more than 450 square metres in Zone 2 (2).

**sporting facility** means a building or place used for outdoor recreational activities, whether for the purpose of gain or not but, in the Table to Part 3, does not include any other building or place

specifically defined in this Dictionary.

**storage facility** means a building or place used for the purpose of storing the belongings or materials of individuals in separate compartments.

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

- (a) a lift shaft, stairway or metre rooms, or
- (b) a bathroom, laundry or similar room, or
- (c) parking accommodation intended for less than 3 vehicles, or
- (d) a combination of the items, rooms or accommodation referred to in paragraphs (a)-(c), or
- (e) a mezzanine floor.

**stormwater management facility** means a building or work used to control the quality of stormwater and includes detention basins, artificial wetlands, silt traps, gross pollutant traps, swales, channels and the like.

**strata title subdivision** means subdivision under the [Strata Schemes \(Freehold Development\) Act 1973](#).

**subdivision of land** has the same meaning as in the Act.

**sustainable generating works** means a building or place used for the purpose of generating electricity using energy derived from water, wind or sun.

**sustainable water cycle management** means water cycle management that incorporates the principles and practice of water smart and water sensitive urban design philosophies.

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

**telecommunications facility** means a facility used to receive and transmit telecommunications including, but not limited to, towers, antennae, ground based and underground facilities.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the Council** means the Council of the City of Lake Macquarie.

**the map** means the series of maps marked “*Lake Macquarie Local Environmental Plan 2004*”, as amended by the maps, or sheets of maps, marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 1)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 3)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 4)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 6)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 7)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 10)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 11)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 12)—Sheet 3*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 14)—Sheets 1 and 2*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 15)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 16)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 17)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 18)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 19)—Sheets 1 and 2*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 20)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 21)—Sheet 1*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 24)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 26)*  
*Lake Macquarie Local Environmental Plan (Amendment No 28)—Sheets 1-5 and 8-10*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 29)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 30)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 31)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 32)—Sheets 1, 2 and 7*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 33)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 34)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 36)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 37)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 38)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 39)*

*Lake Macquarie Local Environmental Plan 2004 (Amendment No 41)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 42)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 45)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 46)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 47)—Sheet 1*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 48)—Sheets 2 and 3*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 49)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 50)—Sheet 1*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 51)—Sheets 2 and 3*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 52)—Sheets 1-11*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 53)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 54)—Sheet 5*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 55)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 57)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 59)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 61)—Sheet 1*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 62)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 65)—Sheet 2*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 66)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 72)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 74)—Sheets 1-6*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 75)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 76)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 77)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 81)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 82)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 83)*  
*Lake Macquarie Local Environmental Plan 2004 (Amendment No 88)*

*State Environmental Planning Policy (Major Projects—North Cooranbong) Amendment 2008—North Cooranbong Land Zoning Map*

**the Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

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

**tourist resort** means a building or place that provides accommodation for tourists together with any one or more of the following—

- (a) on-site facilities to satisfy the recreational, entertainment, dining and business needs of tourists,
- (b) a function centre.

**transport terminal** means a building or place used mainly for the bulk handling of goods for transport by road, rail or air and includes facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles, and includes a road transport terminal and a rail terminal.

**tree** includes—

- (a) any sapling or shrub that is more than 3 metres in height or has a trunk with a diameter, at ground level, of 75mm or more, and
- (b) any species of vegetation that existed in the State of New South Wales before European settlement, and
- (c) any vegetation listed on the Council's *Significant Tree Register*.

**Note—**

The term **tree** includes any tree within the ordinary meaning of that term, such as the Norfolk Island Pine. The above definition extends the meaning of **tree** to include plants that might not otherwise be considered to be trees.

**unzoned land** means land not zoned by this plan.

**utility installation** means a building or work used for a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**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.

**warehouse** means a building used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

**waste management and/or recycling facility** means a building or place used for the collection, storage, abandonment, sorting and/or sale of waste materials and/or the preparation of those recycled materials for further use.

**water cycle management** means the handling of water and water resources in a manner that has

regard to the whole of the hydrological process. This includes having regard to the quality and quantity of the resource from its various sources and its use and transport in the natural and built environment.

**water pollution** or **pollution of waters** has the same meaning as in the [Protection of the Environment Operations Act 1997](#).

**waterbody** means—

(a) a natural waterbody, including—

- (i) a lake or lagoon either naturally formed or artificially modified, or
- (ii) a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of the river or stream, or
- (iii) tidal waters including any bay, estuary or inlet, or

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

**wetland** means those areas where flora are dependent on, or are significantly adapted to living in, wet conditions for a significant part of their life cycle.

**wholesale plant nursery** means a building or place used for both the growing and wholesaling of plants.