

## Cessnock Local Environmental Plan 2008

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# Cessnock Local Environmental Plan 2008

## Part 1 Preliminary

**Direction.** In this standard instrument, provisions are identified as “compulsory” (including in certain cases only) or “optional” by those words being placed in brackets in connection with the clause or other discrete provision or provisions concerned. If an optional provision is adopted, it is to be adopted in the form (and in accordance with the directions) set out in this instrument. If an optional provision is not adopted, the number or other identifier of the provision is to be set out in the Plan with the words “Not adopted” or words to the same effect. If a compulsory provision is not applicable (because of the circumstances referred to in the heading to the provision), the number or other identifier of the provision is to be set out in the Plan with the words “Not applicable” or words to the same effect.

Any additional provisions (not inconsistent with the mandatory provisions) included in the Plan are generally to be included at the end of the Part, clause, subclause etc and are to be numbered in accordance with the usual protocol applicable to amendments made to existing Acts and statutory instruments.

### 1.1 Name of Plan

This Plan is Cessnock Local Environmental Plan 2008.

### 1.2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in Cessnock in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) to strengthen and protect a high quality, sustainable lifestyle for the Cessnock local government area’s residents and visitors;
  - (b) to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of the Cessnock local government area;
  - (c) to encourage development for employment and housing purposes in appropriate locations having regard to proximity to appropriate infrastructure, to ensure efficient use of land and services, to provide walk-able urban environments and to reduce dependency on the use of private vehicles.
  - (d) to provide opportunities for a range of new housing and housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities, including opportunities for the provision of adaptable and affordable housing.

### 1.3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

**Direction.** The Land Application Map may be a separate map or be constituted by the outer boundary of the Land Zoning Map (by an annotation on that Map). The Plan should wherever practicable apply to the whole of the local government area.

### 1.4 Definitions

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

## 1.5 Notes

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

## 1.6 Consent authority

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

**Direction.** If required another person or body may be specified as the consent authority for all or any particular kind of development.

## 1.7 Maps

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

**Note:** The Maps adopted by this Plan are the Land Application Map, the Land Zoning Map, the Lot Size Map, the Land Acquisition Reservation Map, the Height of Buildings Map, the Floor Space Ratio Map, the Heritage Map and the Local Provisions Map.

**Direction.** A note may be included listing the maps adopted by this Plan. In order to effect a future rezoning of land subject to the Plan (or other change to a provision having effect by virtue of an adopted map), the amending local environmental plan (or other planning instrument) would not directly amend the Plan but merely declare that the relevant adopted map is amended by a named amending map.

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

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

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.
- (3) If a development application has been made, before the commencement of this Plan, in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application is to be determined as if this Plan had been exhibited but not commenced.

**Direction.** Provision may also be included to repeal or amend specific instruments to reflect the operation of this clause.

## 1.8A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
  - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) – (3).

## 1.9 Application of SEPPs and REPs

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

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

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

[State Environmental Planning Policy No 1—Development Standards](#)

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

[State Environmental Planning Policy No 9—Group Homes](#)

[State Environmental Planning Policy No 60—Exempt and Complying Development](#)

*Hunter Regional Environmental Plan 1989*

*Hunter Regional Environmental Plan (Heritage) 1989*

**Direction.** Additional instruments (or provisions of instruments) may be added if the relevant instrument or provision is covered by this Plan.

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

### **2.1 Land use zones**

The land use zones under this Plan are as follows:

#### **Rural Zones**

RU1 Primary Production

RU2 Rural Landscape

RU3 Forestry

RU5 Village

#### **Residential Zones**

R2 Low Density Residential

R3 Medium Density Residential

R5 Large Lot Residential

#### **Business Zones**

B1 Neighbourhood Centre

B2 Local Centre

B3 Commercial Core

B4 Mixed Use

B7 Business Park

#### **Industrial Zones**

IN1 General Industrial

IN2 Light Industrial

IN3 Heavy Industrial

#### **Special Purpose Zones**

SP2 Infrastructure

#### **Recreation Zones**

RE1 Public Recreation

RE2 Private Recreation

#### **Environment Protection Zones**

E1 National Parks and Nature Reserves

E2 Environmental Conservation

E3 Environmental Management

**Direction 1.** Additional zones or subzones are not to be prescribed.

**Direction 2.** If the land to which the Plan applies does not include any of the above zones or subzones, the reference to the zone or subzone in this clause and the provisions relating to it in the Land Use Table in clause 2.3 may, but need not, be included.

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

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

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

- (1) The Table at the end of this Part specifies for each zone:
  - (a) The objectives for development, and
  - (b) development that may be carried out without consent, and
  - (c) development that may be carried out only with consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

### **Notes.**

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

## **2.4 Unzoned land**

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

## 2.5 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
  - (a) with consent, or
  - (b) if the Schedule so provides—without consent,

in accordance with the conditions (if any) specified in that Schedule in relation to that development.

- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**Direction.** While this clause and Schedule 1 are compulsory, it is not compulsory to include any items in the Schedule when the Plan is first made.

## 2.6 Subdivision—consent requirements

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

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

## 2.7 Temporary use of land

- (1) Despite any other provision of this Plan, but subject to subclause (2), consent may be granted for development for any purpose (including but not limited to an exhibition, concert, fair, sporting event, fete or market) if the consent authority is satisfied that:
  - (a) the use of the land for the purpose specified will cease within a specified period of time, and
  - (b) suitable arrangements have been made or will be made for the removal of any waste or any temporary structures associated with the temporary use and for restoration of land at the cessation of the temporary use, and
  - (c) the temporary use is reasonable, having regard to the nature of the temporary use and the economic use of the land pending its development otherwise in accordance with this Plan (other than this clause), and
  - (d) the temporary use will not adversely affect the economic viability of any commercial use within the vicinity, and

- (e) the temporary use will not have an unreasonable impact on residential amenity within the locality, and
  - (f) the temporary use will not, in the long term, have an impact on the carrying out of development in accordance with the objectives of the zone, and
  - (g) the temporary use will not be inconsistent with any development consent applying to the land or with any applicable plan of management under the *Local Government Act 1993* or the *Crown Lands Act 1989*.
- (2) Development consent may be granted to the temporary use of land or a building for not more than 52 days, whether consecutive or not, in any one year.

## Land Use Table

**Direction 1.** Additional objectives may be included in a zone at the end of the listed objectives to reflect particular local objectives of development, but only if they are consistent with the core objectives for development in the zone as set out in the Table.

**Direction 2.** Specified uses may be added to (but not removed from) the list of development that is permitted or prohibited in a zone. Additional uses may be added to an item of a zone even if some uses are already specified in that item. Additional permitted uses for particular land (but not all land in a particular zone) may be set out in Schedule 1.

**Direction 3.** Items 2, 3 and 4 of each zone require a relevant entry to be inserted. The following may be entered:

- (a) particular uses,
- (b) the word "Nil",
- (c) the words "Any development not specified in item [specify item number or numbers]", so long as all residual (ie non-specified) uses are covered.

## Zone RU1 Primary Production

**Note:** In this Plan the RU1 zone applies only to the Vineyards District, as identified in the Lower Hunter Regional Strategy as regionally significant agricultural land.

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental protection works; Farm buildings; Roads; Roadside stalls

### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To maintain prime viticultural land and enhance the economic and ecological sustainability of the Vineyards District.
- To encourage appropriate tourist development (including tourist related retail) consistent with the rural and viticultural character of the Vineyards District.

### 2 Permitted without consent

Extensive agriculture; home occupations.

### 3 Permitted with consent

Agricultural produce industries; animal boarding or training establishments; cellar door premises; child care centres; community facilities; dual occupancies; dwelling houses; electricity generating works; emergency services facilities; environmental facilities; environmental protection works; extractive industries; farm buildings; function centres; home businesses; home industries; horticulture; information or education facilities; intensive plant agriculture; mines; mining; recreation facilities (indoor) (in association with tourist and visitor accommodation); recreation facilities (outdoor) (in association with tourist and visitor accommodation); restaurants; retail premises (which are ancillary to tourist and visitor accommodation); roads; roadside stalls; rural supplies; secondary dwellings; sewerage systems; tourist and visitor accommodation; waste or resource management facilities; waterbodies (artificial).

### 4 Prohibited

Caravan parks; hotel or motel accommodation; turf farming; any development not specified in items 2 or 3.

## **Zone RU2 Rural Landscape**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental protection works; Farm buildings; Roads.

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To enable other forms of development which are associated with rural activity and which require an isolated location, or which support tourism and recreation.
- To ensure that the type and intensity of development is appropriate in relation to:
  - the rural capability and suitability of the land;
  - the preservation of the agricultural, mineral and extractive production potential of the land;
  - the rural environment (including scenic resources); and
  - the costs of providing services and amenities.

### **2 Permitted without consent**

Extensive agriculture; home occupations; horticulture.

### **3 Permitted with consent**

Agricultural produce industries; cellar door premises; dual occupancies; dwelling houses; environmental protection works; farm buildings; health consulting rooms; hospitals; livestock processing industries; neighbourhood shops (which also provide services to tourists); pubs; recreation facilities (indoor) (in association with tourist or visitor accommodation); restaurants; retail premises (primarily intended to provide services to tourists); roads; roadside stalls; rural industries; sawmill or log processing works; stock and sale yards;  
any development not specified in items 2 or 4.

### **4 Prohibited**

Attached dwellings; boat repair facilities; brothels; business premises; canal estate developments; car parks; charter and tourism boating facilities; depots; entertainment facilities; exhibition homes; exhibition villages; freight transport facilities; hazardous storage establishments; health services facilities; heliports; highway service centres; home occupations (sex services); industrial retail outlets; industries; liquid fuel depots; marinas; moorings; mortuaries; nightclubs; offensive storage establishments; office premises; passenger transport facilities; residential accommodation; retail premises; rural worker’s dwellings; semi-detached dwellings; sex services premises; storage premises; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; warehouse or distribution centres; wholesale supplies.

## **Zone RU3      Forestry**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Uses authorised under the *Forestry Act 1916*.

### **3      Permitted with consent**

Electricity generating works; emergency services facilities; environmental facilities; environmental protection works; extensive agriculture; extractive industries; horticulture; mines; mining; recreation areas; roads; sawmills or log processing works; sewage reticulation systems.

### **4      Prohibited**

Any development not specified in items 2 or 3.

## **Zone RU5      Village**

**Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone: Roads.

### **1 Objectives of zone**

- To provide for a range of land uses, services and facilities that are associated with a rural village.

### **2 Permitted without consent**

Home occupations.

### **3 Permitted with consent**

Boarding houses; business premises; cemeteries; **child care centres**; **community facilities**; crematoriums; **dwelling houses**; educational establishments; emergency services facilities; entertainment facilities; environmental facilities; environmental protection works; extensive agriculture; food and drink premises; health services facilities; home businesses; home industries; horticulture; information or education facilities; light industries; mortuaries; **neighbourhood shops**; passenger transport facilities; **places of public worship**; pubs; **recreation areas**; **recreation facilities (indoor)**; **recreation facilities (outdoor)**; registered clubs; restaurants; **roads**; roadside stalls; rural supplies; **schools**; semi-detached dwellings; seniors housing; service stations; sewage reticulation systems; shops; take away food and drink premises; tourist and visitor accommodation; vehicle repair stations; veterinary hospitals; waste or resource transfer stations.

### **4 Prohibited**

Amusement centres; backpackers' accommodation; caravan parks; farm stay accommodation;  
any development not specified in items 2 or 3.

## **Zone R2      Low Density Residential**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Bed and breakfast accommodation; dwelling houses; group homes; health consulting rooms; hospitals; neighbourhood shops; roads; sewerage reticulation systems; any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; boarding houses; boat launching ramps; boat repair facilities; boat sheds; brothels; business premises; canal estate development; car parks; cemeteries; charter and tourism boating facilities; crematoriums; depots; dual occupancies; electricity generating works; emergency services facilities; entertainment facilities; extractive industries; farm buildings; freight transport facilities; function centres; hazardous storage establishments; health services facilities; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; information or education facilities; jetties; liquid fuel depots; marinas; mines; mining; moorings; mortuaries; multi dwelling housing; nightclubs; offensive storage establishments; office premises; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; residential flat buildings; retail premises; rural supplies; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; service stations; sewerage systems; sex service premises; shop top housing; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone R3      Medium Density Residential**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Attached dwellings; bed and breakfast accommodation; boarding houses; child care centres; community facilities; funeral chapels; funeral homes; group homes; health consulting rooms; medical centres; multi dwelling housing; neighbourhood shops; places of public worship; roads; seniors housing; serviced apartments; sewerage reticulation systems;  
any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; boat launching ramps; boat repair facilities; boat sheds; brothels; business premises; canal estate development; car parks; cemeteries; charter and tourism boating facilities; crematoriums; depots; electricity generating works; emergency services facilities; entertainment facilities; extractive industries; farm buildings; freight transport facilities; function centres; hazardous storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; jetties; liquid fuel depots; marinas; mines; mining; moorings; mortuaries; nightclubs; offensive storage establishments; office premises; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; residential flat buildings; retail premises; rural supplies; rural worker’s dwellings; service stations; sewerage systems; sex service premises; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone R5      Large Lot Residential**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Bed and breakfast accommodation; dwelling houses; extensive agriculture; health consulting rooms; horticulture; medical centres; neighbourhood shops; roads; sewerage reticulation systems;  
any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; boarding houses; boat launching ramps; boat repair facilities; boat sheds; brothels; business premises; canal estate development; car parks; cemeteries; charter and tourism boating facilities; crematoriums; depots; electricity generating works; emergency services facilities; entertainment facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; freight transport facilities; function centres; group homes; hazardous storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; information or education facilities; jetties; liquid fuel depots; marinas; mines; mining; moorings; mortuaries; multi dwelling housing; nightclubs; offensive storage establishments; office premises; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; residential flat buildings; retail premises; rural supplies; rural worker’s dwellings; semi-detached dwellings; seniors housing; service stations; sewerage systems; sex service premises; shop top housing; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; warehouse or distribution centres; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone B1      Neighbourhood Centre**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads

### **1      Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Bed and breakfast accommodation; business premises; child care centres; community facilities; dwelling houses; group homes; health consulting rooms; hotel or motel accommodation; medical centres; neighbourhood shops; roads; seniors housing; sewage reticulation systems; shop top housing; waste or resource transfer stations; any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; amusement centres; attached dwellings; boat launching ramps; boat repair facilities; boat sheds; brothels; bulky goods premises; canal estate development; car parks; cellar door premises; cemeteries; charter and tourism boating facilities; crematoriums; depots; electricity generating works; emergency services facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; freight transport facilities; function centres; hazardous storage establishments; health services facilities; helipads; highway service centres; home occupations (sex services); hospitals; industrial retail outlets; industries; jetties; landscape and garden supplies; liquid fuel depots; marinas; mines; mining; moorings; mortuaries; nightclubs; offensive storage establishments; office premises; passenger transport facilities; recreation areas; recreation facilities (major); recreation facilities (outdoor); residential accommodation; restricted premises; roadside stalls; rural worker’s dwellings; sewerage systems; sex service premises; storage premises; timber and building supplies; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; veterinary hospitals; warehouse or distribution centres; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone B2      Local Centre**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; group homes; information or education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; seniors housing; service stations; sewage reticulation systems; shop top housing; tourist and visitor accommodation; waste or resource transfer stations; any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; bed & breakfast accommodation; boat launching ramps; boat repair facilities; boat sheds; brothels; canal estate development; caravan parks; cellar door premises; cemeteries; charter and tourism boating facilities; crematoriums; depots; electricity generating works; exhibition homes; exhibition villages; extractive industries; farm buildings; farm stay accommodation; freight transport facilities; hazardous storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; jetties; liquid fuel depots; marinas; mines; mining; moorings; offensive storage establishments; port facilities; recreation facilities (major); recreation facilities (outdoor); residential accommodation; roadside stalls; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; sewerage systems; sex service premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle sales or hire premises; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone B3      Commercial Core**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information or education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; sewage reticulation systems; waste or resource transfer stations;  
any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; bed and breakfast accommodation; boat launching ramps; boat repair facilities; boat sheds; brothels; canal estate development; caravan parks; cellar door premises; cemeteries; charter and tourism boating facilities; crematoriums; depots; dual occupancies; dwelling houses; electricity generating works; exhibition homes; exhibition villages; extractive industries; farm buildings; farm stay accommodation; freight transport facilities; group homes; hazardous storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; jetties; liquid fuel depots; marinas; mines; mining; moorings; multi dwelling housing; offensive storage establishments; recreation facilities (major); recreation facilities (outdoor); residential flat buildings; roadside stalls; rural worker's dwellings; secondary dwellings; semi-detached dwellings; sewerage systems; sex service premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle sales or hire premises; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone B4      Mixed Use**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information or education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; seniors housing; sewage reticulation systems; shop top housing; waste or resource transfer stations;  
any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; amusement centres; attached dwellings; bed & breakfast accommodation; boat launching ramps; boat repair facilities; boat sheds; brothels; canal estate development; caravan parks; cemeteries; charter and tourism boating facilities; cellar door premises; crematoriums; depots; dual occupancies; dwelling houses; electricity generating works; exhibition homes; exhibition villages; extractive industries; farm buildings; farm stay accommodation; freight transport facilities; hazardous storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industries; jetties; liquid fuel depots; marinas; mines; mining; moorings; offensive storage establishments; recreation facilities (major); recreation facilities (outdoor); roadside stalls; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; sewerage systems; sex service premises; transport depots; truck depots; vehicle body repair workshops; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial).

## **Zone B7      Business Park**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Nil.

### **3      Permitted with consent**

Bulky goods premises; child care centres; landscape and garden supplies; light industries; neighbourhood shops; office premises; passenger transport facilities; restaurants; roads; sewage reticulation systems; take away food and drink premises; timber and building supplies; warehouse or distribution centres; waste or resource transfer stations;  
any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; boat launching ramps; boat repair facilities; boat sheds; brothels; canal estate development; cemeteries; charter and tourism boating facilities; community facilities; crematoriums; electricity generating works; entertainment facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; freight transport facilities; function centres; hazardous storage establishments; helipads; highway service centres; home businesses; home industries; home occupations (sex services); hospitals; industries; information or education facilities; jetties; liquid fuel depots; marinas; mines; mining; moorings; nightclubs; offensive storage establishments; places of public worship; recreation areas; recreation facilities (major); recreation facilities (outdoor); registered clubs; residential accommodation; retail premises; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; sewerage systems; sex service premises; tourist and visitor accommodation; vehicle body repair workshops; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial).

## Zone IN1      General Industrial

**Note:** In this Plan the IN1 zone applies only to the Hunter Economic Zone, as identified on the Local Provisions Map.

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### 1      Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To encourage sustainable major industrial development or major employment generating development.

### 2      Permitted without consent

Nil.

### 3      Permitted with consent

Depots; freight transport facilities; funeral chapels; health consulting rooms; landscape and garden supplies; light industries; neighbourhood shops; pubs; roads; serviced apartments; take away food and drink premises; timber and building supplies; warehouse or distribution centres;  
any development not specified in items 2 or 4.

### 4      Prohibited

Agriculture; airstrips; attached dwellings; boat launching ramps; boat repair facilities; boat sheds; brothels; business premises; canal estate development; cemeteries; charter and tourism boating facilities; educational establishments; entertainment facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; function centres; hazardous industries; hazardous storage establishments; health services facilities; highway service centres; home businesses; home industries; home occupations; home occupations (sex services); hospitals; information or education facilities; jetties; livestock processing industries; marinas; moorings; mortuaries; nightclubs; offensive industries; offensive storage establishments; office premises; places of public worship; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); residential accommodation; retail premises; rural industries; rural supplies; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; sex service premises; stock and sale yards; storage premises; tourist and visitor accommodation; veterinary hospitals; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone IN2      Light Industrial**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

### **2 Permitted without consent**

Nil.

### **3 Permitted with consent**

Agricultural produce industries; **depots**; funeral chapels; funeral homes; hotel or motel accommodation; landscape and garden supplies; **light industries**; **neighbourhood shops**; pubs; **roads**; sawmill or log processing works; sewage reticulation systems; timber and building supplies; vehicle sales or hire premises; **warehouse or distribution centres**; waste or resource transfer stations;  
any development not specified in items 2 or 4.

### **4 Prohibited**

Agriculture; airstrips; attached dwellings; boat launching ramps; boat sheds; business premises; canal estate development; cemeteries; charter and tourism boating facilities; community facilities; educational establishments; electricity generating works; emergency services facilities; entertainment facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; function centres; hazardous storage establishments; health services facilities; helipads; highway service centres; home businesses; home industries; home occupations; home occupations (sex services); hospitals; industries; information or education facilities; jetties; marinas; mines; mining; moorings; nightclubs; offensive storage establishments; office premises; recreation facilities (major); recreation facilities (outdoor); residential accommodation; retail premises; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; sewerage systems; tourist and visitor accommodation; waste management facilities; waste or resource management facilities; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone IN3      Heavy Industrial**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Nil.

### **3      Permitted with consent**

Depots; freight transport facilities; funeral chapels; hazardous industries; hazardous storage establishments; heavy industries; neighbourhood shops; offensive industries; offensive storage industries; roads; warehouse or distribution centres; any development not specified in items 2 or 4.

### **4      Prohibited**

Agriculture; airstrips; attached dwellings; boat launching ramps; boat sheds; business premises; canal estate developments; cemeteries; charter and tourism boating facilities; child care centres; community facilities; educational establishments; entertainment facilities; exhibition homes; exhibition villages; farm buildings; function centres; health services facilities; helipads; highway service centres; home businesses; home industries; home occupations; home occupations (sex services); hospitals; information or education facilities; jetties; marinas; mines; mining; moorings; mortuaries; nightclubs; office premises; places of public worship; recreational facilities (indoor); recreational facilities (major); recreational facilities (outdoor); registered clubs; residential accommodation; retail premises; rural supplies; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; tourist and visitor accommodation; veterinary hospitals; water recreation structures; waterbodies (artificial); wholesale supplies.

## **Zone SP2 Infrastructure**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Roads.

### **1 Objectives of zone**

- To provide for infrastructure and related uses;
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

### **2 Permitted without consent**

Nil.

### **3 Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; group homes; roads; any development not specified in items 2 or 4.

### **4 Prohibited**

Agriculture; airstrips; attached dwellings; boat launching ramps; boat repair facilities; boat sheds; brothels; business premises; canal estate development; car parks; cemeteries; charter and tourism boating facilities; child care centres; community facilities; crematoriums; depots; entertainment facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; freight transport facilities; function centres; hazardous storage establishments; helipads; home businesses; home industries; home occupations; home occupations (sex services); hospitals; industrial retail outlets; industries; information or education facilities; jetties; liquid fuel depots; marinas; mines; mining; moorings; mortuaries; nightclubs; offensive storage establishments; office premises; passenger transport facilities; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; residential accommodation; retail premises; rural supplies; rural worker’s dwellings; secondary dwellings; semi-detached dwellings; service stations; sex service premises; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste management facilities; water recreation structures; wholesale supplies.

## **Zone RE1      Public Recreation**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental facilities; Environmental protection works; Roads.

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Nil.

### **3      Permitted with consent**

Caravan parks; child care centres; community facilities; environmental facilities; environmental protection works; helipads; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs (in association with recreational activities); roads; sewage reticulation systems; waterbodies (artificial).

### **4      Prohibited**

Any development not specified in items 2 or 3.

## **Zone RE2 Private Recreation**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental facilities; Environmental protection works; Roads.

### **1 Objectives of zone**

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

### **2 Permitted without consent**

Nil.

### **3 Permitted with consent**

Caravan parks; community facilities; entertainment facilities; environmental facilities; environmental protection works; helipads; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs (in association with recreational activities); roads; sewage reticulation systems; waterbodies (artificial).

### **4 Prohibited**

Amusement centres; cinemas;  
any development not specified in items 2 or 3.

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

### **1      Objectives of zone**

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

### **2      Permitted without consent**

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

### **3      Permitted with consent**

Nil.

### **4      Prohibited**

Any development not specified in item 2 or 3.

## **Zone E2      Environmental Conservation**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental protection works.

### **1      Objectives of zone**

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

### **2      Permitted without consent**

Home occupations.

### **3      Permitted with consent**

Dual occupancies; dwelling houses; environmental facilities; environmental protection works; recreation areas; roads; secondary dwellings; sewage reticulation systems; tourist and visitor accommodation; waterbodies (artificial).

### **4      Prohibited**

Business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any development not specified in items 2 or 3.

## **Zone E3 Environmental Management**

**Direction.** The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone: Environmental protection works; Roads.

Home industries, kiosks, cellar door premises, neighbourhood shops and roadside stalls may (but need not) be included as permitted with consent.

### **1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To permit a limited range of agricultural and tourist and visitor accommodation development on less constrained land, where it will not have an adverse effect on those values.

### **2 Permitted without consent**

Home occupations.

### **3 Permitted with consent**

Boat sheds; cellar door premises; dual occupancies; dwelling houses; environmental facilities; **environmental protection works**; extensive agriculture; farm buildings; home businesses; home industries; horticulture; intensive plant agriculture; jetties; recreation areas; **roads**; secondary dwellings; sewage reticulation systems; tourist and visitor accommodation; water recreation structures; waterbodies (artificial).

### **4 Prohibited**

Industries; multi dwelling houses; residential flat buildings; retail premises; seniors housing; service stations; turf farming; warehouse or distribution centres; any development not specified in items 2 or 3.

## Part 3 Exempt and complying development

### 3.1 Exempt development

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

The section states that exempt development:

- (a) must be of minimal environmental impact, and
  - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
  - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
  - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
  - (3) To be exempt development, the development:
    - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
    - (c) must not be designated development, and
    - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
    - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 3.3).
  - (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
    - (a) the building has a current fire safety certificate or fire safety statement, or
    - (b) no fire safety measures are currently implemented, required or proposed for the building.

### 3.2 Complying development

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

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
- (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
- (c) the development is designated development, or
- (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under

- the *Heritage Act 1977*), or
- (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
  - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
  - (2) Development specified in Part 1 of Schedule 3 that is carried out in compliance with:
    - (a) the development standards specified in relation to that development, and
    - (b) the requirements of this Part, is complying development.
- Note.** See also clause 5.8.3 which provides that the conversion of fire alarms is complying development in certain circumstances.
- (3) To be complying development, the development must:
    - (a) be permissible, with consent, in the zone in which it is carried out, and
    - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
    - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
  - (4) A complying development certificate for development specified in Part 1 of Schedule 3 is subject to the conditions (if any) set out in Part 2 of that Schedule.

### 3.3 Environmentally sensitive areas excluded

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

- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

**Direction.** Additional areas may be added to this list.

## Part 4 Principal development standards

### 4.1 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
  - (a) to ensure minimum lot sizes are appropriate for the zones to which they apply and for the land uses permitted in those zones; and
  - (b) to ensure minimum lot sizes reflect the outcomes of any adopted settlement strategy for the Cessnock Local Government Area.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

**Direction.** An exception to the minimum size shown on the Lot Size Map may be provided in certain circumstances, for example, in the case of land that is to be used for attached dwellings.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
- (5) Despite subclause (3) the minimum size of any lot resulting from such subdivision of land that is within Area 1, 2 or 3, as indicated on the Lot Size Map, is specified below.

Land	Minimum Lot Size
Area 1	600 m <sup>2</sup> in the case of battle-axe or hatchet shaped lots.
Area 2	2000 m <sup>2</sup> in the case of lots that are not able to be serviced by a reticulated water and reticulated sewerage system.
Area 3	2 hectares in the case of lots that are not able to be serviced by a reticulated water and reticulated sewerage system.

- (6) Nothing in subclause (3) prevents consent being granted to a strata title or community title subdivision of an approved dual occupancy, multi dwelling housing, seniors housing or shop top housing development, creating a lot size smaller than the minimum lot size shown on the Lot Size Map, where the residential accommodation is within Zones R2, R3 or a business zone.
- (7) Despite subclause (4) land within Zone RU1 may not be subdivided to create individual lots in a strata plan or community title scheme.
- (8) For the purposes of this clause the area of any access handle or right-of-carriageway is not to be included in the calculation of minimum lot size.

### 4.2 Rural subdivision [includes land zoned RU1, RU2, RU4 or RU6]

- (1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.

- (2) This clause applies to the following rural zones:
    - (a) Zone RU1 Primary Production,
    - (b) Zone RU2 Rural Landscape,
    - (c) Zone RU4 Rural Small Holdings,
    - (d) Zone RU6 Transition.
  - (3) Land in a zone to which this clause applies may, with consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.
  - (4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.
  - (5) A dwelling cannot be erected on such a lot.
- Note.** A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).

#### **4.2A Erection of dwelling houses and dual occupancy housing**

- (1) The consent authority shall not grant consent to the erection of a dwelling house or dual occupancy housing unless the lot upon which it is to be erected:
  - (a) has an area not less than that specified on the Lot Size Map, or
  - (b) is a lot created with consent under the provisions of Cessnock Local Environmental Plan 1989, and upon which erection of a dwelling-house would have been permissible with consent under the provisions of that plan, or
  - (c) is identified on the Local Provisions Map as having a dwelling entitlement.
- (2) Notwithstanding subclause (1) the consent authority may grant consent to a dwelling-house or dual occupancy on land comprising the whole of a vacant land area, as identified on the Local Provisions Map, or on other land upon which erection of a dwelling-house would have been permissible under the provisions of Cessnock Local Environmental Plan 1989 as in force immediately prior to the making of this plan.
- (3) If consent is granted for the erection or creation of a dwelling-house or dual occupancy on land comprising more than one lot, portion or parcel, the consent authority may impose a condition of consent that requires the consolidation of some or all of those lots, portions or parcels.
- (4) Notwithstanding any other provision of the plan a person shall not, except with the consent of Council, erect a dwelling-house on land within any zone that has access only by way of an unformed or unmade road.
- (5) The consent authority shall not consent to the erection of dual occupancy housing on land within zones RU1, RU2, E2 or E3 unless the consent authority is satisfied that:
  - (a) the two dwellings give the appearance of being an integrated development by sharing infrastructure such as access arrangements, fire breaks and services, and
  - (b) the clustering of rural buildings has regard to topographical features, and
  - (c) any clearing necessary for the dwellings is minimised.

#### **4.2B Dwelling houses - residue lots created as a result of a road closure, road widening or road realignment**

- (1) Except as provided by subclause (2), and despite any other provision of this plan, consent must not be granted to the erection of a dwelling-house on a lot created as a result of a road closure, road widening or road realignment the area of which is less than the minimum area prescribed by this plan for the erection of a dwelling-house on the lot.
- (2) Consent may be granted to the erection of a dwelling-house on a residue lot created as a result of a road closure, road widening or road realignment the area of which is less than the minimum area prescribed by this plan for the erection of a dwelling-house on the lot if a right to erect a dwelling-house existed on the original area of land the subject of the subdivision by which the residue lot was created.

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

- (1) The objectives of this clause are as follows:
  - (a) revitalise the Cessnock city centre to facilitate high density residential, commercial and retail development, to ensure that it develops in a co-ordinated and cohesive manner;
  - (b) ensure that taller buildings are appropriately located and consistent with the environmental setting and landform; and
  - (c) encourage mixed use development with residential components, high residential amenity, active street frontages, while permitting adequate sunlight access to key areas of the public domain.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**Direction.** Different heights may be shown on the map for different zones or for different land in the same zone. This Plan may also provide for specified height restrictions to be varied or modified in certain circumstances, for example, to prevent overshadowing of public open space, for air safety reasons or for the purposes of promoting design excellence.

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

- (1) The objectives of this clause are as follows:
  - (a) to provide sufficient floor space for high quality development;
  - (b) to regulate density of development and generation of vehicular and pedestrian traffic; and
  - (c) to facilitate development that contributes to the economic growth of the Cessnock city centre.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

**Direction.** Different floor space ratios may be shown on the FSR map for different zones, for different land in the same zone or for different land uses within a building. This Plan may provide that, despite subclause (2), the maximum floor space ratio for a building is to be determined partly by the FSR map and partly by other means, or wholly by other means.

## 4.5 Calculation of floor space ratio and site area

### (1) Objectives

The objectives of this clause are as follows:

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

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

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

### (3) Site area

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

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

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

### (4) Exclusions from site area

The following land must be excluded from the site area:

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

### (5) Strata subdivisions

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

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

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

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

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed

development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

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

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

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

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (**affected land**), and
  - (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,
- the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, **public place** has the same meaning as it has in the [Local Government Act 1993](#).

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

- (1) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:

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

**Direction.** Additional exclusions may be added.

## Part 5 Miscellaneous provisions

### 5.1 Land acquisition within certain zones

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

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

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

Type of land shown on the Map	Authority of the State
-------------------------------	------------------------

Zone RE1: Public Recreation and	Council
---------------------------------	---------

marked "Local open space"

Zone RE1: Public Recreation and	The corporation constituted
---------------------------------	-----------------------------

under section 8 of the Act

Marked "Regional open space"

Zone SP2: Infrastructure and marked	Roads and Traffic Authority
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"Classified road"

Zone SP2: Infrastructure and marked "Local road"	Council
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**Zone E1: National Parks and Nature**

**Minister administering the National**

**Reserves and marked "National Park"**

**Parks and Wildlife Act 1974**

**Direction.** Land is required to be shown on the Land Reservation Acquisition Map if it is expressly set apart by the Plan exclusively for a public purpose referred to in section 26 (1) (c) of the Act. However, any such land that is held by an authority of the State, or by a public company or a subsidiary of a public company (within the meaning of the *Corporations Act 2001* of the Commonwealth) is not required to be shown on that Map. An authority of the State is to be listed for all land shown on the Land Reservation Acquisition Map, but the land is not to be so reserved and the authority listed unless the authority consents to its being listed.

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

## 5.2 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council, to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

**Note.** Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
  - (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted to that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
  - (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
  - (b) any reservations that except land out of the Crown grant relating to the land, and
  - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

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

## 5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.

- (3) This clause does not apply to:
- (a) land zoned RE1 Public Recreation, E1 National Parks and Nature Reserves, E2 Environmental Conservation, E3 Environmental Management or W1 Natural Waterways, or
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.

**Direction.** Additional zones may be included in paragraph (a).

- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
- (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Plan.

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

- (1) **Bed and breakfast accommodation**  
If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.
- (2) **Home businesses**  
If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.
- (3) **Home industries**  
If development for the purposes of a home industry is permitted under this Plan, the carrying on of the light industry must not involve the use of more than 50 square metres of floor area.
- (4) **Industrial retail outlets**  
If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed:
- (a) 10% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
  - (b) 100 square metres, whichever is the lesser.
- (5) **Farm stay accommodation**  
If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.
- (6) **Kiosks**  
If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 10 square metres.

- (7) **Neighbourhood shops**  
If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100 square metres.
- (8) **Roadside stalls**  
If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 10 square metres.
- (9) **Secondary dwellings**  
If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever or the following is the greater:
  - (a) 60 square metres,
  - (b) 50% of the total floor area of both the self-contained dwelling and the principal dwelling.

## **5.5 Development within the coastal zone**

[Not Applicable]

## **5.6 Architectural roof features**

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

## **5.7 Development below mean high water mark**

[Not Applicable]

## **5.8 Conversion of fire alarms**

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

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

## 5.9 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.  
**Note.** A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
  - (a) development consent, or
  - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

- (a) that is or forms part of a heritage item, or
- (b) that is within a heritage conservation area.

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

(8) This clause does not apply to or in respect of:

- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

## 5.10 Heritage conservation

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

### (1) Objectives

The objectives of this clause are:

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

### (2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building, by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or

- excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

**(3) When consent not required**

However, consent under this clause is not required if:

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

**(4) Effect on heritage significance**

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

**(5) Heritage impact assessment**

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

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

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

**(6) Heritage conservation management plans**

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

**(7) Archaeological sites**

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

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

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

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

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

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

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

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

**(10) Conservation incentives**

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

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

### **5.11 Bush fire hazard reduction**

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

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

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

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

## **Part 6 Local Provisions**

### **6.1 Clearing of vegetation in the Hunter Economic Zone**

- (1) A person must not clear land within Zones IN1, SP2 or E2 in the Hunter Economic Zone unless:
  - (a) the clearing is carried out to allow other development for which consent has been granted to be carried out; or
  - (b) the consent authority has consented to the clearing.
- (2) This clause does not prevent the clearing of land within Zones IN1 and SP2 in the Hunter Economic Zone for the purpose of a land survey or a geotechnical or similar investigation without consent if the clearing:
  - (a) is not commenced until after the Council has authorised the clearing in writing and is carried out in accordance with that authorisation; and
  - (b) constitutes under-scrubbing only, with no removal of trees; and
  - (c) is carried out to clear a strip that has width of not more than 3 metres or an area that has a diameter of not more than 3 metres; and
  - (d) is undertaken in the presence of a suitably qualified and experienced ecologist who must, if the Council requests, certify that the clearing will have no significant effect on threatened species, populations or ecological communities, or their habitats.

### **6.2 Subdivision in the Hunter Economic Zone**

- (1) Consent must not be granted to the subdivision of land within the IN1 or SP2 zones within the Hunter Economic Zone unless the subdivision specifically relates to the use of the land for which consent has previously been or will concurrently be granted.
- (2) Despite subclause (1) consent may be granted to the subdivision of land to within the Hunter Economic Zone solely for the purpose of making a minor adjustment to the IN1, SP2 or E2 zone boundaries.

### **6.3 Rural tourist and visitor accommodation in zones RU1, RU2, E2 (Bow Wow Creek Gorge Catchment and Habitat Corridors) and E3**

- (1) Consent must not be granted to development for the purposes of tourist and visitor accommodation on land within Zone RU1 unless the lot on which the development is to be carried out has an area of not less than 10 hectares.
- (2) Consent must not be granted to development for the purposes of tourist and visitor accommodation on land within Zones RU2, E2 (Bow Wow Creek Gorge Catchment and Habitat Corridors) or E3 unless the lot on which the development is to be carried out has an area of not less than 10 hectares and has a dwelling entitlement pursuant to clause 4.2A of this plan.

### **6.4 Development in flight paths**

- (1) A person shall not erect a building on land that is within the flight path of an airport to a height above the obstacle height limitation surface for that airport, as identified in *Cessnock Development Control Plan 2008, Part E, Chapter 7: Cessnock Airport*, without the consent of the Council.

- (2) The Council shall not grant consent under subclause (1) unless it is satisfied, after consultation with the proper officers of the Commonwealth Department of Transport and Communications, that the building will not constitute an obstruction, hazard or potential hazard to aircraft flying in the vicinity.
- (3) In granting consent under subclause (1), the Council shall give consideration to any noise exposure forecasts prepared by officers of the Commonwealth Department of Transport and Communications and to whether the proposed use of the building will be adversely affected by exposure to aircraft noise.
- (4) For the purposes of this clause, the flight path of an airport shall include such land as is determined by the proper officers of the Commonwealth Department of Transport and Communications and communicated to the Council.

## **6.5 Development in areas subject to airport noise**

- (1) This clause applies to certain land at Nulkaba, being land affected by Australian Noise Exposure Forecast contours of between 20 and 25, as identified in *Cessnock Development Control Plan 2008, Part E, Chapter 7: Cessnock Airport*.
- (2) A person shall not, without the consent of the Council, erect a building for residential purposes, or intended for human occupation, on land to which this clause applies.
- (3) The Council shall not grant consent to the erection of such a building unless it is satisfied that measures will be taken which accord with section 3 of AS 2021 and that there is incorporated in the building's envelope an extent of aircraft noise reduction estimated in accordance with clause 3.2.2 of AS 2021.

## Part 7 Urban Release Areas

### 7.1 Aims of Part

This Part aims:

- (a) to allow for future urban development and the conservation of ecological and riparian corridors and areas of visual significance on land within urban release areas, and
- (b) to require satisfactory arrangements to be made for the provision of utility infrastructure and State public infrastructure before the subdivision of such land, and
- (c) to ensure that development on such land occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan including specific controls has been prepared for the land.
- (d) to require satisfactory arrangements to be made for the provision of local infrastructure when consenting to development on any land, whether or not identified as an urban release area.

### 7.2 Relationship between Part and remainder of plan

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

### 7.3 Restriction on certain subdivisions—infrastructure, facilities and services

- (1) This clause applies to land that is in an urban release area identified on the Local Provisions Map, but does not apply to such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The object of this clause is to require assistance towards the provision of State public infrastructure to satisfy needs that arise from development on land to which this clause applies, but only if the land is developed intensively for urban purposes.

In this clause “**State public infrastructure**” means public facilities or services (for transport, communication, health, education, environmental, conservation or other purposes) that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State).

- (3) Despite any other provision of this plan, the Council must not grant consent to the subdivision of land to which this clause applies if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the Council that satisfactory arrangements have been made to contribute to the provision of State public infrastructure and services in relation to that lot.
- (4) Subclause (3) does not apply to any lot:
  - (a) identified in the certificate as a residue lot, or
  - (b) that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose.

- (5) Subclause (3) does not apply to a subdivision for the purpose only of rectifying an encroachment on any existing allotment.
- (6) Clause 4.6 of this plan does not apply to development for the purposes of subdivision on land to which this clause applies.

#### **7.4 Development control plan**

- (1) The Council must not grant consent to development on land within an urban release area unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the land.
- (2) The development control plan referred to in subclause (1) must provide for all of 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,
  - (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.

#### **7.5 Public utility infrastructure – local infrastructure**

- (1) The Council must not grant consent to development on any land, whether or not identified as an urban release area on the Local Provisions Map, unless it 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) In this clause, public utility infrastructure includes infrastructure for any of the following:
  - (a) the supply of water;
  - (b) the supply of electricity; or
  - (c) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

**Schedule 1**

**Additional permitted uses**

**(Clause 2.5)**

- (1) Unnumbered lot, DP 959255, in the vicinity of Scott, Morgan and Mayne Streets, North Rothbury, as identified on the Local Provisions Map - subdivision creating 3 lots, each lot having a minimum area of 2000 square metres and the erection of a dwelling-house on each lot so created.
- (2) Lot 3, DP 250551, Lovedale Road, Keinbah - subdivision creating 2 lots, one of which is not to be more than 2 hectares in area, and the erection of a dwelling-house on the lot with the 2 hectare limit.
- (3) Such parts of Lot 2, DP 1073823, Wine Country Drive, Lovedale, as are identified on the Local Provisions Map - strata subdivision of existing tourist and visitor accommodation development.
- (4) Such parts of "The Vintage", Wine Country Drive, Pokolbin, as are identified on the Local Provisions Map - subdivision of land and the erection of dwelling-houses, multi-dwelling housing and the like on the lots so created where the subdivision is, in the opinion of the Council, required as an integral part of a major tourist and visitor accommodation development.
- (5) Such parts of The Oaks Golf and Country Club, Mount View Road, Cessnock, the Department of Corrective Services and the Calvary Retirement Village as are identified on the Local Provisions Map, development for the following purposes:
  - Lot 18 DP 844842, The Oaks Golf and Country Club - serviced apartments and neighbourhood shop.
  - Part Lot 1 DP 1078864, Calvary Retirement Village – extension of golf course (6 holes).
  - Part Lot 3 DP 76202, Department of Corrective Services – extension of golf course (1 hole).

# **Cessnock Local Environmental Plan 2008**

## **Schedule 2: Exempt Development**

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## **1.1 EXEMPT DEVELOPMENT**

### **1.1 General Criteria**

For the development to fall into the category of exempt development, the person carrying out the use or activity specified in this Schedule shall comply with the 'criteria' contained in Table 1 of this Schedule.

### **1.2 Development Specific Criteria**

For the development to fall into the category of exempt development, the use or activity specified in this Schedule shall not be detrimentally impacted upon or detrimentally impact on, the following (as identified in Table 1):

- (a) land identified as being bushfire prone;
- (b) land identified as flood prone (1% ARI or 1 in 100 year event);
- (c) land identified as subject to slope instability or is land with a slope of greater than 20°;
- (d) land identified as having reactive soils, particularly Acid Sulphate Soils;
- (e) land within a Mine Subsidence District, unless the proposed development has been formerly approved by the Mine Subsidence Board;
- (f) land identified as contaminated or potentially contaminated.

### **1.3 Comments**

The following Table 1 provides a list of the categories of development that are exempt development for the purposes of this Schedule.

It is important to note, that the exemption may only be granted if the development is designed to comply with the relevant requirements or conditions listed in this plan.

In the event that the development does not comply with the preset requirements or conditions then a Development Consent, Construction Certificate or Complying Development Certificate will need to be obtained prior to work commencing.

**Note:** Clearing of native vegetation is administered by the Hunter – Central Rivers Catchment Management Authority, subject to the Native Vegetation Act, 1993.

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

Tree removal in urban areas (not subject to the Native Vegetation Act, 1993) is administered by Cessnock City Council and is deemed to be 'exempt development' as per the criteria set out in Table 1. As stated above, in the event that the development does not comply with the 'criteria', then a Development Consent will need to be obtained prior to any works commencing.

## ***Exempt Development***

### ***Access Ramps (disabled access)***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item;
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed.
- (3) The *access ramp (disabled access)* shall:
  - (a) have a maximum height of 1000mm above ground level;
  - (b) have maximum grade 1:14 and comply with AS 1428.1-2001, *Design for access and mobility-General requirements for access-New building work*;
  - (c) not involve the excavation of more than 1.0 metre from the existing ground level, or the filling of more than 1.0 metre above the existing ground level;
  - (d) not impact upon the existing approved landscaping or car parking provisions; and
  - (e) where part of a strata development, the written approval of the Body Corporate shall be obtained.

### ***Aerials / Antennae / Microwave Antennae (see below regarding 'Satellite TV dishes')***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed.
- (3) The *aerial / antennae / microwave antennae* shall:
  - (a) be a maximum of one (of each) per dwelling, factory, shop, or the like;
  - (b) have a maximum height of 6.0 metres above the ridge of the roof for a dwelling or 10.0 metres above ground level if not attached to the dwelling-house; and
  - (c) not produce interference on nearby televisions, radios or electrical appliances.

### ***Air conditioning units (dwelling houses attached to external wall or ground mounted).***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) on the front façade of the dwelling.
- (3) The *air conditioning unit* shall be constructed such that:
  - (a) any opening created is to be adequately waterproofed;
  - (b) for BASIX affected buildings there are no adverse impacts upon the BASIX commitments;

- (c) noise emissions must not be audible inside the interior of any adjoining dwelling between 10:00pm and 7:00am on weekdays, and between 10:00pm and 8:00am on Saturdays, Sundays and public holidays. At all other times, noise levels must not exceed 5dBA above the ambient background noise level measured at the allotment boundary;
- (d) it has a Minimum Energy Performance Standard consistent with AS/NZS 3823.2:2005, *Performance of electrical appliances-Airconditioners and heat pumps-Energy labelling and minimum energy performance standard (MEPS) requirements*; and
- (e) it does not affect the structural integrity of any building on which it is erected.

**Amusement devices**

- (1) Permissible in all zones.
- (2) There shall be a maximum of two (2) machines in any establishment.

**Automatic teller machines (ATMs)**

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site.
- (3) The *automatic teller machine (ATM)* shall:
  - (a) be wholly enclosed within an arcade or shopping mall;
  - (b) not front a public footpath or street; and
  - (c) the area surrounding an ATM is to be kept clear of litter derived from its use by the proprietor of the establishment.

**Aviaries (domestic, see below regarding 'fowl houses')**

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) for the keeping of fowls.
- (3) The *aviary* shall:
  - (a) be free standing (not attached to any dwelling);
  - (b) have a maximum area of 10m<sup>2</sup> on lots up to 4,000m<sup>2</sup> and 50m<sup>2</sup> on lots greater than 4,000m<sup>2</sup>;
  - (c) have a maximum height of 2.4 metres;
  - (d) have an impervious floor;
  - (e) be located in the rear yard;
  - (f) have a minimum setback of 900mm to a property boundary on lots up to 4,000m<sup>2</sup> and 3.0 metres on lots greater than 4,000m<sup>2</sup>;
  - (g) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (h) in flood prone areas, provision for the safety of animals.

### ***Awnings, canopies and storm blinds (domestic)***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) within any required or necessary Asset Protection Zones (bushfire); or
  - (e) within the front setback to the street or within side and rear setbacks (for awnings).
- (3) The *awnings, canopies and storm blinds* shall:
  - (a) have a maximum area of 30m<sup>2</sup>;
  - (b) minimum setback of 900mm to side and rear boundaries and behind the existing building line setback from the street frontage in residential zones;
  - (c) be made from generally non-reflective materials and are visually compatible with the existing building;
  - (d) dispose of roof water, so that there is no adverse impact on any building or on any adjoining premises; and
  - (e) for BASIX affected buildings there are no adverse impacts upon the BASIX commitments.

### ***Barbeques***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *barbeque* shall:
  - (a) have a maximum area of 4.0 m<sup>2</sup>;
  - (b) have a maximum height of 1.8 metres;
  - (c) be located behind the dwelling-house and building line in residential zones;
  - (d) have a minimum setback of 900mm from side and rear boundaries;
  - (e) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (f) be a fixed structure.

### ***Bus Shelters***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to flooding.
- (3) The *bus shelters* shall:
  - (a) be designed and constructed by or on behalf of Council;
  - (b) reflect the character and amenity of the area;
  - (c) be of structurally adequate construction;

- (d) not obstruct the line of sight of vehicular traffic;
- (e) be located to enable safe and convenient access by pedestrians including people with disabilities;
- (f) provide all-weather comfort for patrons;
- (g) have a maximum area of 10m<sup>2</sup>;
- (h) have non-reflective surface finishes;
- (i) comprise of no advertising signs;
- (j) dispose of roof water, so that there is no adverse impact on any building or on any adjoining premises; and
- (k) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

***Cabanas, Gazebos and Green Houses (roofed or unroofed)***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to flooding; or
  - (d) on land that is subject to slopes greater than 20<sup>0</sup>; or
  - (e) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *cabanas, gazebos and green houses*, shall:
  - (a) have a maximum area of 30m<sup>2</sup>;
  - (b) have a maximum height of 2.7 metres at any part of the structure measured vertically from existing ground level;
  - (c) be located behind the front building line;
  - (d) have a minimum setback of 900mm to side and rear boundaries in residential zones;
  - (e) have a minimum setback of 5.0 metres to side and rear boundaries and behind the front building line in all other zones;
  - (f) be constructed in non-reflective materials;
  - (g) dispose of roof water so that there is no adverse impact on any building or on any adjoining premises;
  - (h) for BASIX affected buildings there are no adverse impacts upon the BASIX Commitments; and
  - (i) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

***Carpports***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20<sup>0</sup>; or
  - (f) within any required or necessary Asset Protection Zones (bushfire).

- (3) The *carports*, shall:
- (a) have a maximum area of 30m<sup>2</sup>;
  - (b) have a maximum height of 2.7 metres at any part of the structure measured vertically from existing ground level;
  - (c) be located behind the front building line;
  - (d) have a minimum setback of 900mm to side and rear boundaries in residential zones;
  - (e) have a minimum setback of 5.0 metres to side and rear boundaries in all other zones;
  - (f) be constructed in non-reflective materials;
  - (g) dispose of roof water so that there is no adverse impact on any building or on any adjoining premises;
  - (h) for BASIX affected buildings there are no adverse impacts upon the BASIX commitments; and
  - (i) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

### ***Charity Bins / Clothing and Recycling Bins***

- (1) Permissible in the following zones, subject to an application under Section 68 of the Local Government Act 1993.

B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
B7: Business Park;  
IN1: General Industrial;  
IN2: Light Industrial; and  
IN3: Heavy Industrial.

- (2) The *charity bins / clothing and recycling bins*, shall:
- (a) not exceed more than two bins in any one location;
  - (b) be kept clean and tidy at all times, including the surrounding area;
  - (c) not to be located in a designated carparking space;
  - (d) be installed by a registered charity or charitable organisation; and
  - (e) in public places comply with Council Policy R20.2 – Placement of Clothing Recycling Bins.

### ***Clothes Hoists / Lines***

- (1) Permissible in all zones.
- (2) The *clothes hoists / lines*, shall:
- (a) be behind the front building line;
  - (b) have a minimum setback of 900mm to the side and rear boundaries in the residential zones;
  - (c) have a minimum setback of 5.0 metres to side and rear boundaries in all other zones; and
  - (d) not extend beyond the boundaries of the subject site; and
  - (e) not be constructed such that it requires a tree to be removed; and
  - (f) be installed to the manufacturer's specifications.

**Cubby Houses** (see below regarding 'playground equipment')

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is subject to flooding; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) on land that is subject to contamination; or
  - (e) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *cubby houses*, shall:
  - (a) have a maximum area 10m<sup>2</sup>;
  - (b) have a maximum height 2.4 metres;
  - (c) have a minimum setback to side and rear boundaries in residential zones as follows;

<b>Floor level above existing ground</b>	<b>Setback</b>
400 mm	900 mm
800 mm	1200 mm
>1000 mm	1500 mm

- (d) have a minimum setback of 900mm to side and rear boundaries in all other zones; and
- (e) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

**Decks / Patios**

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) on that specific portion of land, if it is subject to flooding; or
  - (c) beyond the boundaries of the subject site; or
  - (d) such that it requires a tree to be removed; or
  - (e) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *decks / patios*, shall:
  - (a) be made of timber, concrete or metal and attached to the dwelling (unroofed only);
  - (b) not exceed an area of 30m<sup>2</sup>;
  - (c) be behind the existing front building line;
  - (d) have a finished floor level not greater than 1.0 metre above existing ground level;
  - (e) for timber decks, have a minimum clearance to the ground of 400mm and compliance with AS 3666 (termite control);
  - (f) have a minimum setback to side and rear boundaries in residential zones of;

<b>Floor level above existing ground</b>	<b>Setback</b>
400 mm	900 mm
600 mm	1200 mm
800 mm	1500 mm
1000 mm	1800 mm

- (g) have a minimum setback of 5.0 metres to side and rear boundary in all other zones;
- (h) be constructed in non-reflective materials;
- (i) ensure that runoff water is disposed of, so that there is no adverse impact on any building or on any adjoining premises; and
- (j) not have more than 1/3 of the total potential wall area is enclosed in solid materials. The remainder may be open or enclosed in shade cloth, fly screen or similar.

### **Demolition**

- (1) Permissible in all zones.
- (2) Must not occur:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item.
- (3) The *demolition*, shall proceed provided:
  - (a) the building or structure did not or does not require development consent to be built (i.e. it could have been erected as Exempt Development);
  - (b) it is carried out in accordance with AS2601– 2001, *Demolition of structures*; and
  - (c) the removal of lead paint, asbestos or the like, be done according to the Australian Standards.

**Note:** Refer to Cessnock DCP 2008, Part C: General Guidelines, Chapter 5: Waste Management & Minimisation.

WorkCover Authority's 'Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos' should be referred to.  
Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au). and [www.diysafe.nsw.gov.au](http://www.diysafe.nsw.gov.au)

### **Dog Kennels**

- (1) Permissible in the following zones: RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *dog kennels*, shall:
  - (a) have a maximum area of 10m<sup>2</sup>;
  - (b) have a maximum height of 2.4 metres;
  - (c) have a minimum setback of 5.0 metres to side and rear boundaries;
  - (d) house a maximum of three (3) dogs; and

- (e) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
- (f) in flood prone areas, provision for the safety of animals.

**Drainage** (*construction and maintenance*)

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to slopes of greater than 20<sup>0</sup>; or
  - (d) on land that is subject to acid sulfate soils; or
  - (e) on land that is subject to contamination.
- (3) The *drainage (construction and maintenance)* for or on the behalf of Council, shall:
  - (a) be designed, fabricated and installed in accordance with relevant SAA standards;
  - (b) be located on land under the control of Council; and
  - (c) be installed in accordance with manufacturer's specifications.
- (4) The *drainage (construction and maintenance)* other than, for or on the behalf of Council, shall:
  - (a) only involve the removal of surface or ground water;
  - (b) include the construction, deepening, extending, opening, installation or laying of drains or pipes, either on land or in such a manner to encourage drainage of the subject site;
  - (c) not remove or damage any native trees;
  - (d) not cause any erosion problems or water pollution; and
  - (e) have all work completed / constructed so that it does not change the natural flow of stormwater drainage / runoff onto neighbouring properties.

**Note:** *Drainage works shall not be of a scale to constitute flood mitigation works as SEPP (Infrastructure) 2007, Part 3, Division 7: Flood mitigation work.*

**Earthworks** (*excavation or fill*)

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to flooding;
  - (d) on land that is subject to slopes of greater than 20<sup>0</sup>; or
  - (e) on land that is subject to acid sulfate soils; or
  - (f) on land that is subject to contamination.
- (3) The *earthworks (excavation or fill)*, shall:
  - (a) be for landscaping and gardening only;
  - (b) for benching & / or levelling of land, to a maximum depth of 600mm;
  - (c) not remove or damage any native trees;
  - (d) not cause any erosion or sedimentation problems or water pollution;
  - (e) ensure that all work is completed / constructed so that it does not change the natural flow of stormwater drainage / runoff onto neighbouring properties and does not cause water pollution;

- (f) result in all earth being fully retained, with retaining walls meeting the requirements of Exempt Development (see **Retaining Walls** below); and
- (g) have the sediment control devices remaining in place until all works are completed.

### **Fences**

**Note:** Excludes fences covered by *Swimming Pools Act 1992*.

#### **Boundary fences**

- (1) Permissible in all zones, excluding the RU1: Primary Production zone.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding.
- (3) The *boundary fences*, shall:
  - (a) have a maximum height of 1.2 metres for side fences between the building line and street or any other public place if constructed of timber, metal or light weight materials;
  - (b) have a maximum height of 1.8 metres above original ground level for side fences between the building line and the rear boundary and rear boundary fences if constructed of timber, metal or light weight materials;
  - (c) not prevent the natural flow of stormwater drainage; and
  - (d) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

#### **Masonry or Brick fences**

- (1) Permissible in all zones, excluding the RU1: Primary Production zone.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding.
- (3) The *masonry or brick fences*, shall:
  - (a) have a maximum height of 1.0 metre;
  - (b) not prevent the natural flow of stormwater drainage;
  - (c) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

#### **Security fences**

- (1) Permissible in the following zones. IN1: General Industrial;  
IN2: Light Industrial;  
IN3: Heavy Industrial; and  
SP2: Infrastructure.

- (2) Must not be constructed:
- (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding.
- (3) The *security fences*, shall:
- (a) be located behind the required landscaping area;
  - (b) be decorative fencing only, not chain wire;
  - (c) have a maximum height of 2.0 metres;
  - (d) not prevent the natural flow of stormwater drainage; and
  - (e) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

**Note:** Refer to Cessnock DCP 2008, Part D: Specific Development, Chapter 3: Industrial Development, and Part E: Specific Areas, Chapter 6: HEZ.

### **Electric fences**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape; and  
RU3: Forestry.
- (2) Must not be constructed:
- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) within any required or necessary Asset Protection Zones (bushfire); or
  - (e) on land that is subject to flooding.
- (3) The *electric fences*, shall:
- (a) be erected in accordance with AS3014-1991 – Electrical Installation;
  - (b) be located inside the property boundary fence;
  - (c) be a maximum height of 1.5 metres;
  - (d) not prevent the natural flow of stormwater drainage; and
  - (e) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

### **Stock and Sale Yard fences**

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) Must not be constructed:
- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) beyond the boundaries of the subject site; or
  - (c) such that it requires a tree to be removed; or
  - (d) within any required or necessary Asset Protection Zones (bushfire); or
  - (e) on land that is subject to flooding.

- (3) The *stock and sale yard fences*, shall:
- (a) be a maximum height of 1.5 metres;
  - (b) not prevent the natural flow of stormwater drainage; and
  - (c) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas.

### **Filming**

- (1) May only be carried out:
- (a) on private land; or
  - (b) in the Sydney Olympic Park within the meaning of the *Sydney Olympic Park Authority Act 2001*; or
  - (c) on Trust lands within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*; or
  - (d) on Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*; or
  - (e) on part of the foreshore area within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*; or
  - (f) on Crown land.
- (2) May only be carried out on land:
- (a) on which there is a heritage item; or
  - (b) within a heritage conservation area; or
  - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development, if the filming does not involve or result in any of the following:
  - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area;
  - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure);
  - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it;
  - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.
- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming;
  - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary);
  - (c) the proposed location of the filming;

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

### **Flagpoles**

- (1) Permissible in all zones.
- (2) The *flagpoles*, shall:
  - (a) have a maximum height of 4.0 metres above ground level in residential zones and the RU5 Zone;
  - (b) have a maximum height of 6.0 metres above ground level in all other zones;
  - (c) be structurally adequate and installed to manufacturer's specifications;

- (d) be located so that the flagpole and / or the flag do not project over a public road or property boundary;
- (e) not be constructed such that it requires a tree to be removed; or
- (f) not cause a noise nuisance;
- (g) for industrial and commercial zones have a maximum of 3 flagpoles per street frontage per property; and
- (h) for other zones including residential have a maximum of 1 flagpole per street frontage per property.

***Fowl Houses (for the keeping of poultry in rural areas)***

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape; and  
R5: Large Lot Residential.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20<sup>0</sup>.
- (3) The *fowl houses*, shall:
  - (a) have a maximum area of 50m<sup>2</sup> on 2.0 hectare lots or smaller;
  - (b) have a maximum area of 100m<sup>2</sup> on lots greater than 2.0 hectares;
  - (c) have a maximum height of 3.0 metres;
  - (d) have a minimum setback of 5.0 metres from side and rear boundaries and not in the front setback to the street;
  - (e) have a minimum setback from a dwelling-house, public hall, school or premises used for the manufacture, preparation, sale or storage of food of 20 metres;
  - (f) be constructed of materials that blend with the environment and be non-reflective;
  - (g) dispose of roofwater so that there is no adverse impact on any building or on any adjoining premises;
  - (h) be so designed so as to enable the disposal of manure and waste water in a manner that does not harm or pollute the local or downstream environment; and
  - (i) be design and located to mitigate the effects of any offensive smell in the locality.
  - (j) be regularly cleaned and maintained, with floors being either hard paved underneath the roosts or perches or situated on clean sand;
  - (k) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (l) in flood prone areas, provision for the safety of animals.

***Fowl Houses (for the keeping of poultry in residential areas)***

- (1) Permissible in the following zones. R2: Low Density Residential; and  
RU5: Village.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or

- (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20°.
- (3) The *fowl houses*, shall:
- (a) have a maximum area of 10m<sup>2</sup>;
  - (b) have a maximum height of 2.4 metres;
  - (c) house a maximum of 12 hens and no roosters;
  - (d) have a minimum setback of 2.0 metres from side and rear boundaries and not in the front setback to the street;
  - (e) have a minimum setback from a dwelling-house, public hall, school or premises used for the manufacture, preparation, sale or storage of food of 20 metres;
  - (f) be constructed of materials that blend with the environment and be non-reflective;
  - (g) dispose of roofwater so that there is no adverse impact on any building or on any adjoining premises;
  - (h) be so designed so as to enable the disposal of manure and waste water in a manner that does not harm or pollute the local or downstream environment; and
  - (i) be design and located to mitigate the effects of any offensive smell in the locality.
  - (j) have the floors paved with concrete or mineral asphalt underneath the roosts or perches, or situated on clean sand;
  - (k) have the yard surrounding the fowl house be so enclosed as to prevent the escape of poultry; and
  - (l) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (m) in flood prone areas, provision for the safety of animals.

### **Fuel Tanks**

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) Must not be constructed:
- (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20°.
- (3) The *fuel tanks*, shall:
- (a) have a maximum capacity of 5,000 litres;
  - (b) have a bund capacity of at least 110% of the capacity of the fuel tank;
  - (c) be constructed of prefabricated metal, free standing and not relying on other structures for support;
  - (d) be operated and maintained in accordance with AS 1940-2004;
  - (e) not be erected within 50 metres of a street boundary or side or rear boundary;
  - (f) be located wholly within the boundaries of the property;
  - (g) be located more than 40 metres from any dwelling-house on the allotment;
  - (h) be located more than 100 metres from any dwelling-house on an adjoining allotment;
  - (i) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and

- (j) be utilised with the agricultural activities occurring on the subject site.

### **Garden Sheds**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential; and  
R5: Large Lot Residential.
- (2) Must not be constructed:
- (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20°.
- (3) The *garden sheds*, shall:
- (a) be a maximum area of 12m<sup>2</sup>;
  - (b) have a maximum overall height of 2.1 metres at the highest point from existing ground level;
  - (c) have a minimum setback of 900mm to side or rear boundaries and behind the front building line;
  - (d) be securely fixed to concrete footings or slabs;
  - (e) dispose of roofwater so that there is no adverse impact on any building or on any adjoining premises;
  - (f) have a maximum of 2 sheds per property;
  - (g) be constructed in non-reflective materials;
  - (h) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (i) be free standing and prefabricated.

### **Home-based child care**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
E2: Environmental Conservation; and  
E3: Environmental Management.
- (2) Must not be constructed:
- (a) on land that is classified as bushfire prone land; or
  - (b) on land that is subject to flooding; or
  - (c) on land that is subject to contamination.
- (3) The *home-based child care*, shall comply with the definition:

- (a) *Home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and which satisfies the following conditions:*
  - (a) *the service is appropriately licensed within the meaning of the Children and Young Persons (Care & Protection) Act 1998;*
  - (b) *the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.*

### **Horse Stables & Animal Shelters**

- (1) Permissible in the following zones. RU1: Primary Production; and RU2: Rural Landscape.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20°.
- (3) The *horse stables & animal shelters*, shall:
  - (a) have a maximum stable area of 10m<sup>2</sup> on lots 4,000m<sup>2</sup> or less, 20m<sup>2</sup> on lots greater than 4,000m<sup>2</sup> to 2.0 hectares, and 50m<sup>2</sup> on lots greater than 2.0 hectares;
  - (b) have a maximum height of 3.0 metres;
  - (c) have a minimum setback of 10 metres from side and rear boundaries and not in the setback to the street;
  - (d) be constructed of materials that blend with the environment and are non-reflective;
  - (e) dispose of roofwater such that there is no adverse impact on any building or on any adjoining premises;
  - (f) be designed to enable disposal of manure and waste water in a manner that does not harm or pollute the local or downstream environment;
  - (g) be designed and located to mitigate the effects of any offensive smell on the locality;
  - (h) have a minimum setback from a dwelling-house, public hall, school or premises used for the manufacture, preparation, sale or storage of food of 20 metres;
  - (i) have floors paved with concrete or mineral asphalt underneath the roosts or perches, or situated on clean sand;
  - (j) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas;
  - (k) in flood prone areas, provision for the safety of animals; and
  - (l) have yards enclosed as to prevent the escape of horses.

### **Letter Boxes (free standing or in 'banks')**

- (1) Permissible in all zones.
- (2) The *letter boxes*, shall:
  - (a) have a maximum height of 1.2 metres above ground level;
  - (b) have only 1 letterbox per dwelling unit;
  - (c) be appropriately numbered;
  - (d) be structurally stable with adequate footings;

- (e) be located at major street frontage and wholly within private property (ie. not in the road reserve / footpath); and
- (f) comply with Australia Post requirements.

### ***Minor internal alterations to existing dwellings-houses***

- (1) Permissible in all zones.
- (2) The *minor internal alterations to existing dwellings-houses*, shall:
  - (a) be
    - (i) wall, ceiling or floor linings;
    - (ii) deteriorated frame members with equivalent or improved quality materials;
    - (iii) renovation of bathrooms, kitchens, inclusion of built-in fixtures such as: vanities; cupboards; and wardrobes;
  - (b) apply only to alterations or renovations of previously approved and completed buildings;
  - (c) not include changes to the configuration of rooms whether by removal of existing walls, partitions or other means;
  - (d) not cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas;
  - (e) not compromise any BASIX Certificate commitments; and
  - (f) the removal of lead paint, asbestos or the like, be done according to the Australian Standards.

**Note:** *WorkCover Authority's 'Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos' should be referred to. Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au). and [www.diysafe.nsw.gov.au](http://www.diysafe.nsw.gov.au)*

### ***Minor internal alterations to existing commercial buildings***

- (1) Permissible in all zones.
- (2) The *minor internal alterations to existing commercial buildings*, shall:
  - (a) be non-structural work only such as:
    - (i) replacement of doors;
    - (ii) wall, ceiling or floor linings;
    - (iii) deteriorated frame members with equivalent or improved quality materials;
    - (iv) renovation of bathrooms, kitchens, inclusion of built-in fixtures such as: vanities; cupboards; and wardrobes;
  - (b) apply only to alterations or renovations of previously approved and completed buildings;
  - (c) not include the creation of rooms whether by removal of existing walls, partitions or other means;
  - (d) not cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas;
  - (e) not compromise any energy efficiency measures / commitments of the building design;
  - (f) ensure that the essential fire safety measures are fully operational and the required essential fire safety measures certification is current;
  - (g) not change the access and egress provisions of the building;
  - (h) not compromise any BASIX Certificate commitments; and

- (i) the removal of lead paint, asbestos or the like, be done according to the Australian Standards.

**Note:** WorkCover Authority's 'Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos' should be referred to.  
Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au). and [www.diySAFE.nsw.gov.au](http://www.diySAFE.nsw.gov.au)

### **Outdoor dining**

- (1) Permissible in the following zones, subject to an application under Section 125 of the Roads Act 1993, where located within the road reserve.

RU5: Village;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre; and  
B4: Mixed Use.

- (2) Must not be constructed:
  - (a) on land that is within a heritage conservation area or within the curtilage of a heritage item.
- (3) The *outdoor dining*, shall:
  - (a) have a clear footpath width of 1.5 metres, to ensure the free and unobstructed flow of pedestrians. A greater width may be required where ground levels, pavement surface or other conditions restrict access for disabled persons, or in the vicinity of pedestrian crossings and traffic lights, or where there is an existing high volume of pedestrian traffic;
  - (b) have a minimum distance of 1.0 metre between the boundary of the seating area and the kerb of the road or any other area where vehicles may park and require door swing space;
  - (c) not increase the overall seating capacity of the restaurant, such that additional toilet facilities or other essential services are required;
  - (d) not extend beyond the frontage of the premises it is related to, without the written consent of the adjoining business and property owners;
  - (e) have all outdoor furniture and other equipment as temporary (i.e. not fixed or fastened in any way to the footpath or building);
  - (f) have all outdoor furniture and other equipment such as: umbrellas; umbrella stands; pot plants; and barriers, used to define the seating area, being removed from the **approved area** upon completion of each days trading;
  - (g) have no outdoor furniture, barrier or structure permanently fastened to the footway unless prior approval is obtained from Council;
  - (h) permit access (not inhibit) to public utilities such as: fire hydrants; access holes; inspection chambers; telephone and electricity cables; water service pipes; and the like;
  - (i) be located on a footpath area which is sealed or paved for its full width. The applicant / proponent may be required to pave, seal or repair the footway at its own expense prior to the use being approved;
  - (j) maintain the footpath area in a clean and tidy condition at all times;
  - (k) where the existing premises is licensed, serve liquor in the outdoor dining area with the approval of the Licensing Court;
  - (l) where the food business is located in a declared 'Alcohol Free Zone', not serve liquor on the footpath or public place;

- (m) not be exempt where any internal or external work required to the existing building as a result of the outdoor dining proposal, is work other than work which is exempt under this Schedule; and
- (n) not be exempt where the existing food premises consent, contains a condition requiring the provision of parking spaces or payment of a contribution, in lieu of such provision.

**Note:** Refer to Cessnock DCP 2008, Part D: Specific Development, Chapter 9: Outdoor Dining, for additional information.

### **Pergola**

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to slopes of greater than 20<sup>0</sup>.
- (3) The *pergola's*, shall:
  - (a) have a maximum area of 30m<sup>2</sup>;
  - (b) have a maximum height of 2.7 metres at any part of the structure measured vertically from existing ground level;
  - (c) be located behind the front building line;
  - (d) not reduce the required private open space area below the minimum requirement;
  - (e) not reduce the required solar access provisions below the minimum requirement for itself or adjoining dwellings;
  - (f) have a minimum setback of 900mm to side and rear boundaries in R2, R3, R5 and RU5 Zones;
  - (g) have a minimum setback of 5.0 metres to side and rear boundaries in all other zones;
  - (h) be constructed in non-reflective materials;
  - (i) dispose of roofwater such that there is no adverse impact on any building or on any adjoining premises;
  - (j) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (k) for BASIX affected buildings have no adverse impacts upon the BASIX Certificate commitments.

### **Playground equipment** (in association with dwelling-houses)

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
E2: Environmental Conservation; and  
E3: Environmental Management.

- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire); or
  - (d) on land that is subject to flooding; or
  - (e) on land that is subject to contamination.
- (3) The *playground equipment*, shall:
  - (a) be designed, fabricated and installed in accordance with the relevant SAA standards;
  - (b) be installed in accordance with manufacturer's specifications;
  - (c) be constructed in non-reflective materials; and
  - (d) dispose of roofwater such that there is no adverse impact on any building or on any adjoining premises.

**Note:** *Includes home trampolines and swing sets.*

### **Rainwater tanks**

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

**Direction.** Rainwater tanks that exceed the maximum capacity referred to in this subclause may be permitted under an additional provision in this clause.

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

***Re-cladding of roofs or walls (including repair / maintenance of damaged materials)***

- (1) Permissible in all zones.
- (2) Must not be constructed:
- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) within any required or necessary Asset Protection Zones (bushfire).

- (3) The *re-cladding of roofs or walls*, shall:
- (a) have the existing materials replaced with similar materials, excluding the use of raw zincalume for dwelling-houses and associated outbuildings;
  - (b) not involve structural alterations for re-cladding;
  - (c) comprise of sound materials, compatible with the appearance of the existing materials;
  - (d) not include changing the pitch of the roof;
  - (e) for metal roofs where no earthing arrangement is in place, include installation of such an arrangement in accordance with AS3000 2000;
  - (f) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas;
  - (g) the removal of lead paint, asbestos or the like, be done according to the Australian Standards; and
  - (h) for BASIX affected buildings, ensure there are no adverse impacts upon the BASIX Certificate commitments.

**Note:** WorkCover Authority's "Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos" should be referred to.  
Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and [www.diyasafe.nsw.gov.au](http://www.diyasafe.nsw.gov.au)

**Replacement of windows & external doors (dwelling-houses)**

- (1) Permissible in all zones.
- (2) Must not be constructed:
- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *replacement of windows & external doors*, shall:
- (a) involve non-structural work only;
  - (b) not to include changes to the configuration of rooms whether by removal of existing walls, partitions or other means;
  - (c) not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas;
  - (d) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas;
  - (e) the removal of lead paint, asbestos or the like, be done according to the Australian Standards; and
  - (f) for BASIX affected buildings there are no adverse impacts upon the BASIX Certificate commitments.

**Note:** WorkCover Authority's "Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos" should be referred to.  
Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and [www.diyasafe.nsw.gov.au](http://www.diyasafe.nsw.gov.au)

**Replacement of windows & external doors (commercial buildings)**

- (1) Permissible in all zones.
- (2) Must not be constructed:
- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) within any required or necessary Asset Protection Zones (bushfire).

- (3) The *replacement of windows & external doors*, shall:
- (a) be non-structural work only;
  - (b) not to include changes to the configuration of rooms whether by removal of existing walls, partitions or other means;
  - (c) not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas;
  - (d) ensure the essential fire safety measures are fully operational and the required essential fire safety measures certification is current;
  - (e) not change the access and egress provisions of the building;
  - (f) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas;
  - (g) the removal of lead paint, asbestos or the like, be done according to the Australian Standards; and
  - (h) for BASIX affected buildings have no adverse impacts upon the BASIX Certificate commitments.

**Note:** WorkCover Authority's "Your Guideline to working with Asbestos – Safety guidelines and requirements for work involving Asbestos" should be referred to.  
Refer to websites [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) and [www.diyasafe.nsw.gov.au](http://www.diyasafe.nsw.gov.au)

### **Retaining walls**

- (1) Permissible in all zones.
- (2) Must not be constructed:
- (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to flooding;
  - (d) on land that is subject to slopes of greater than 20<sup>0</sup>;
  - (e) on land that is subject to acid sulphate soils; or
  - (f) on land that is subject to contamination.
- (3) The *retaining walls*, shall:
- (a) have a maximum height of 900mm;
  - (b) have masonry walls that comply with AS3700 - Masonry Code, AS3600 – Concrete Structures, AS1170 – Loading Code;
  - (c) have timber walls that comply with AS1720 – Timber Structures, AS1170 – Loading Code, AS3660 – Termite Protection Code;
  - (d) be constructed so that they do not prevent the natural flow of stormwater drainage / runoff onto neighbouring properties and allow for the adequate release of hydrostatic pressure behind the wall;
  - (e) not affect existing boundary fencing;
  - (f) be such that all associated earthworks are to meet the requirements of exempt development;
  - (g) not cause any erosion or sedimentation problems or water pollution;
  - (h) ensure that all work is completed / constructed so that if it changes the natural flow of stormwater drainage / runoff, it does not adversely affect neighbouring properties or cause water pollution; and
  - (i) have the sediment control devices remaining in place until all works are completed.

### **Satellite TV dishes**

- (1) Must not be installed or erected:

- (a) on land within a heritage conservation area or within the curtilage of a heritage item; or
  - (b) less than 1m from any easement or public sewer main.
- (2) Must be installed or erected wholly within the boundaries of a property.
  - (3) If roof mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height at any point must not exceed the highest point of the roof (if the roof is peaked) or 1.2m above the roof (if the roof is flat).
  - (4) If ground mounted, must have a diameter not exceeding 90cm (excluding any projecting feed element) and its height must not exceed 1.2m above the highest point of the roof of the dwelling on which, or adjacent to which, it is erected.
  - (5) If installed or erected on land within a Business or Industrial zone, must comply with the following:
    - (a) if roof mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height at any point must not exceed 1.8m above the highest point of the roof structure;
    - (b) if ground mounted, must have a diameter not exceeding 1.8m (excluding any projecting feed element) and its height must not exceed 1.8m above the highest point of the roof of any building on which, or adjacent to which, it is erected.
  - (6) Must be installed in accordance with the manufacturer's specifications and any relevant standard specified by Standards Australia.
  - (7) Must not affect the structural integrity of any building on which it is erected.

### ***Shade structures***

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire) for dwelling houses.
- (3) The *shade structures*, shall:
  - (a) be open weave fabric or mesh shade structures when located on residential properties, schools, child care centres and public playgrounds;
  - (b) have a maximum area not exceeding 40m<sup>2</sup> for residential properties & childcare centres in R2, R3, R5 & RU5 zones;
  - (c) have a maximum height of support pole is 4.0 metres, with the average height of structure not exceeding 3.0 metres measured vertically from existing ground level;
  - (d) have a minimum setback of 900mm to side and rear boundaries and be behind the front building line in R2, R3, R5 & RU5 zones;
  - (e) have a minimum setback of 5.0 metres to side and rear boundaries and be behind the front building line in all other zones;
  - (f) be designed, fabricated and installed in accordance with appropriate Australian Standards and the manufacturer's specifications (including issues such as wind loads, noise and drainage);
  - (g) be constructed in non-reflective materials;

- (h) dispose of roofwater such that there is no adverse impact on any building or on any adjoining premises;
- (i) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
- (j) for BASIX affected buildings there are no adverse impacts upon the BASIX Certificate commitments.

### **Signage**

- (1) Permissible in all zones.
- (2) The *signage*, shall:
  - (a) be permitted where an approved, exempt or complying business operates;
  - (b) be permitted on either side of the structure, as appropriate.
- (3) Must not be installed or erected on land:
  - (a) that is within a heritage conservation area or within the curtilage of a heritage item, excluding temporary signs.

**Note:** Refer to the specific signage categories below as applicable.

### **A-frame / Sandwich board signs**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN1: General Industrial;  
IN2: Light Industry;  
IN3: Heavy Industry;  
SP2: Infrastructure  
E2: Environmental Conservation; and  
E3: Environmental Management.
- (2) The *A-frame / sandwich board signs*, shall:
  - (a) be one double-sided sign per premises / business or per street frontage if the property fronts two roads (one sign per frontage);
  - (b) not exceed 1300mm - height or 900mm - width;
  - (c) for chalkboard areas, be permitted provided that the sign has a professionally presented header displaying the business name. The text of the sign displayed shall only relate to the business conducted or goods sold at the premises;
  - (d) be suitably weighted so as to be free from any movement and structurally sound, or prevent injury to people or damage to property;
  - (e) be removed outside business trading hours and be able to be repositioned easily;

- (f) be located within the property boundaries and is not to be erected or placed on a public footpath or erected or placed so as to obstruct a public footpath or road;
- (g) not be illuminated or use flashing lights or similar devices for illumination; and
- (h) not be orientated to or visible from a public road, public place or adjoining property, in the RU1 zone.

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.*

See *Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.*

### **Below awning signs**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN1: General Industrial;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.
- (2) The *below awning signs*, shall:
  - (a) be one double-sided sign per premises / business or per street frontage if the property fronts two roads (one sign per frontage);
  - (b) not exceed 2500mm - length or 500mm - height;
  - (c) be erected horizontal to the ground, at least 2600mm above ground level;
  - (d) be a minimum distance of 3000mm from another *below awning sign* and 1500mm from the premises / business side boundary;
  - (e) be erected at right angles to the building to which the awning is attached;
  - (f) not project beyond the awning and be securely fixed;
  - (g) not cover mechanical ventilation inlet or outlet vents;
  - (h) where over public roads, be at least 600mm from kerb / roadway edge; and
  - (i) not be illuminated or use flashing lights or similar devices for illumination.

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.*

See *Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.*

### **Business directory signs**

- (1) Permissible in the following zones. RU5: Village;  
B1: Neighbourhood Centre;  
B2: Local Centre;

B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.

- (2) The *business directory signs*, shall:
- (a) have a maximum 1 sign per approved building or site;
  - (b) identify as many approved individual businesses within the building or site as required;
  - (c) not exceed a maximum advertising area of 0.5m<sup>2</sup> per business and shall not be higher than 2000mm above natural ground level;
  - (d) only contain the name and address of each individual business and a logo or symbol identifying each business;
  - (e) not advertise specific product, trade or brand names;
  - (f) be wholly contained within the site or premises and shall be securely fixed, where it does not constitute a danger to any person or vehicle;
  - (g) not cover mechanical ventilation inlet or outlet vents; and
  - (h) not be illuminated or use flashing lights or similar devices for illumination.

**Note:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.*

### ***Business identification signs***

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.
- (2) The *business identification signs*, shall:
- (a) have a maximum 1 sign is permitted per premises / business or in the RU1 Zone, 2 frontage signs visible from the property frontage or public place is permissible and 3 frontage signs where the property has frontage to more than 1 road, provided:
    - 2 of the signs are located on either side of the principal entrance;
    - 1 sign is located on the road not used as the principal entrance; and
    - the road that is not used as the principal entrance has a frontage of more than 250 metres;
  - (b) the sign/s shall not exceed a maximum advertising area of:
    - 3.0m<sup>2</sup> and no higher than 2000mm in the rural areas;
    - 8.0m<sup>2</sup> and no higher than 8000mm in the business areas;
    - 10m<sup>2</sup> and no higher than 8000mm in the industrial areas; and
    - 3.0m<sup>2</sup> (up to 4.0m<sup>2</sup> with multiple businesses) and no higher than

3000mm in the RU1 Zone;

- (c) contain directions or cautions as is usual or necessary relating to the premises or any occupation carried on at the premises business;
- (d) contain particulars or notification required or permitted to be displayed by or under any Act of the Parliament of the Commonwealth;
- (e) include the address of the premises / business and a logo or symbol identifying the business;
- (f) not advertise specific product, trade or brand names, other than in the RU1 Zone, where the vineyard name has been used on a wine bottle label;
- (g) be wholly contained within the site or premises and shall be securely fixed, where it does not constitute a danger to any person or vehicle;
- (h) not cover mechanical ventilation inlet or outlet vents, as applicable; and
- (i) not be illuminated or use flashing lights or similar devices for illumination.

**Notes:** *Below awning, window and fascia signs can also be classified as business identification signs.*

*See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.*

*See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.*

### **Fascia signs**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.
- (2) The *business identification signs*, shall:
  - (a) be a maximum one sign per premises/business;
  - (b) be attached flush or with the fascia;
  - (c) not extend beyond (above, below & or/sideways) the dimensions of the fascia;
  - (d) contain information on the sign that only relates to the business name, service or goods provided;
  - (e) not cover mechanical ventilation inlet or outlet vents; and
  - (f) not be internally illuminated or use flashing lights or similar devices for illumination.

**Notes:** *See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage for additional information & graphics.*

*See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District for additional information & graphics.*

### **Flush wall signs**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.
- (2) The *flush wall signs*, shall:
- (a) have a maximum of one sign per building;
  - (b) not extend beyond (above, below & / or sideways) the area of the wall;
  - (c) not project more than 300mm from the wall;
  - (d) for a building having an above ground elevation of:
    - more than 200m<sup>2</sup>, not exceed 10%;
    - more than 100m<sup>2</sup> to 200m<sup>2</sup>, not exceed 20m<sup>2</sup>;
    - less than 100m<sup>2</sup>, not exceed 20% of the above ground elevation;
  - (e) in the RU1 Zone, not exceed an area greater than 25% of the wall area;
  - (f) contain information on the sign that only relates to the business name, services or goods provided;
  - (g) not obscure significant architectural elements or cover mechanical ventilation inlet or outlet vents; and
  - (h) not be illuminated or use flashing lights or similar devices for illumination.

**Notes:** See *Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District*, for additional information & graphics.

### **Gateway signage**

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) The *gateway signage*, shall:
- (a) be an integral part of the principle visitor driveway entrance;
  - (b) have a maximum of 2 signs with a maximum area not exceeding 2.0m<sup>2</sup> each;
  - (c) be located on either side of the driveway entrance; and
  - (d) incorporate a maximum of 2 wine barrels into the entrance and be located wholly within the property, within the recessed gateway and be positioned so as not to obstruct vehicular or pedestrian sight lines access.

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage*, for additional information & graphics.

See *Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District*, for additional information & graphics.

### **Internal signs**

- (1) Permissible in all zones, excluding IN1: General Industrial.
- (2) The *internal signs*, shall:
  - (a) be wholly within the walls / boundaries of the premises / building / site;
  - (b) for directional signs, such as signs directing: vehicle entry and exit points; visitors to parking areas; toilet facilities; and the like, be positioned to ensure that the safety of pedestrians and drivers is not compromised;
  - (c) not cover mechanical ventilation inlet or outlet vents;
  - (d) for directional signs, be kept to a minimum; and
  - (e) not be illuminated or use flashing lights or similar devices for illumination.

### **Projecting wall signs**

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN2: Light Industry;  
IN3: Heavy Industry; and  
SP2: Infrastructure.
- (2) The *projecting wall signs*, shall:
  - (a) be either square or horizontally proportioned rectangular configuration with the bottom edge of the sign being no less than 2600mm above ground level;
  - (b) not project beyond the top of the wall on which the sign is fixed, or beyond the footpath (as applicable); and
  - (c) not be illuminated or use flashing lights or similar devices for illumination.

**Notes:** See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.

### **Temporary signs (real estate: sale, rent, auction and land release)**

- (1) Permissible in all zones.
- (2) The *temporary signs*, shall:
  - (a) have a maximum of 1 sign per agent / per road frontage;
  - (b) be permitted for a maximum period of 12 months, 3 months in the IN1 Zone, following which time a development application will be required to be submitted to Council;
  - (c) be wholly contained within the subject property (ie. not protruding onto the footpath) and at least 1.0 metre from the front boundary in the IN1 zone;
  - (d) have a sign area and height not exceeding:
    - 5.0m<sup>2</sup> and 3000mm high in rural zones;
    - 4.5m<sup>2</sup> and 3000mm high in business and industrial zones; and

- 3.0m<sup>2</sup> and 1700mm high in residential zones;
- (e) be authorised by the owner of the property, prior to their erection;
- (f) be in good clean order and condition and not be erected in a manner where they can cause public danger, offence or inconvenience;
- (g) not be attached to telegraph poles, trees, sign posts, road traffic facilities, or the like;
- (h) reflect the current status of the property regarding sale or lease and be a true reflection of the property's availability from the viewpoint of the public;
- (i) not be illuminated or use flashing lights or similar devices for illumination;
- (j) be removed within 7 days of the property settlement;
- (k) be displayed no earlier than 42 days before the day on which the auction is to take place and shall be removed within 7 days after the auction; and
- (l) have a maximum of one A-frame / sandwich board sign may be erected / displayed 24 hours prior to an auction and shall be removed immediately after the auction. Such a sign is only permitted within the property boundaries, provided it does not interfere with traffic or pedestrian movements or safety.

**Notes:** See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 6: HEZ, for additional information & graphics.

### **Temporary signs (special events)**

- (1) Permissible in all zones.
- (2) The *temporary signs*, shall:
  - (a) only be displayed for a period of not more than 2 months prior to the event and shall be removed within 48 hours after the event;
  - (b) only be displayed for a period of 14 days in the IN1 Zone;
  - (c) be a maximum of 6 off-site signs, though no off-site temporary signs are permitted in the IN1 Zone;
  - (d) be a maximum of 2 on-site signs;
  - (e) in the IN1 Zone, relate only to the property on which they are located and shall not exceed 2000mm in length or 1000mm in height;
  - (f) not exceed 5.0m<sup>2</sup> in area, and be no higher than 3000mm above ground level;
  - (g) be erected on private property;
  - (h) be securely attached to an approved sign, wall structure, fence or post supports;
  - (i) be completed in a professional manner, with the design and finish in character with the local area;
  - (j) not overhang a public road or footpath;
  - (k) not obstruct a driver's line of sight;
  - (l) not occupy no more than 5% of the sign display area with regard to product or corporate branding;
  - (m) not be secured to any Council property (ie. street signs, seating, etc.); and
  - (n) in the case of a banner, the area of the banner shall not exceed 75% of the area of the permanent sign fixed to the structure.

**Notes:** See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 6: HEZ, for additional information & graphics.

### **Temporary signs (political advertising)**

- (1) Permitted in all zones, excluding IN1: General Industrial.
- (2) The *temporary signs*, shall:
  - (a) have a maximum of one sign per premises;
  - (b) not be erected or placed on a public footpath or erected or placed so as to obstruct a public footpath or road;
  - (c) not cover mechanical ventilation inlet or outlet vents; and
  - (d) not be illuminated or use flashing lights or similar devices for illumination.

### **Window signs**

- (1) Permitted in all zones, excluding IN1: General Industrial.
- (2) The *window signs*, shall:
  - (a) be of a high quality design and completed in a professional manner;
  - (b) be internally illuminated or floodlit; and
  - (c) not occupy an area greater than 25% of the total area of the window in the RU1: Zone.

**Notes:** See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.

### **Wine barrel signs**

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) The *wine barrel signs*, shall:
  - (a) be complete and intact, rather than halved or sculpted and shall be safely and attractively mounted to prevent it being pushed over and rolled away; and
  - (b) be painted in subdued colour tones and the information shall be professionally sign-written onto the barrel.

**Notes:** See Cessnock DCP 2008, Part D: Specific Development, Chapter 5: Outdoor Signage, for additional information & graphics.

See Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District, for additional information & graphics.

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### **Silos**

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) on land that is subject to flooding;
  - (d) on land that is subject to slopes of greater than 20°; or
  - (e) on land that is within a mine subsidence district.
- (3) The *silos*, shall:
  - (a) be a maximum size (by capacity mass) of 120 tonnes;
  - (b) be prefabricated, freestanding and not relying on other structures for support;
  - (c) be erected in accordance with the manufacturer's specifications and / or engineer's certification;
  - (d) have a minimum setback to property boundary being equivalent to the height of the silo plus 1.0 metre; and
  - (e) be located behind the building line and not in front of any dwelling house.

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

- (1) Permissible in all zones.
- (2) Must not be constructed:
  - (a) within any required or necessary Asset Protection Zones (bushfire).
- (3) The *skylight roof windows*, shall:
  - (a) have a maximum area (skylight) of 1.0m<sup>2</sup>;
  - (b) comprise of non-structural work only;
  - (c) be located not less than 900mm from a property boundary and not less than 900mm from a wall separating attached dwellings;
  - (d) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas;
  - (e) adequately waterproof any opening created by the installation; and
  - (f) for BASIX affected buildings there are no adverse impacts upon the BASIX Certificate commitments.

### **Street signs** (comprising name plates, directional signs, information signs and advance traffic warning signs)

- (1) Permissible in all zones.
- (2) The *street signs*, shall:
  - (a) be constructed by or on behalf of Council;
  - (b) be designed, fabricated and installed in accordance with relevant SAA standards.

### **Subdivisions** (minor)

- (1) Permissible in all zones.
- (2) Must not be conducted:

- (a) on land that is within a heritage conservation area or within the curtilage of a heritage item.
- (3) The *subdivision (minor)*, shall:
  - (a) be for a minor adjustment to the property boundary where no additional allotment is created, no additional dwelling entitlement is created and the size and shape of the resultant lots is similar to that prior to the subdivision (within 10%); and
  - (b) be such that the resultant lot complies with clause 4.1: Minimum subdivision lot size, as applicable to the zone.

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 1: Subdivision Guidelines*.

**Subdivision (torrens title for existing dual occupancy)**

- (1) Permissible in the following zones. RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;
- (2) The *subdivision (torrens title for existing dual occupancy)*, shall:
  - (a) be for dual occupancy development which is serviced by a reticulated sewerage system;
  - (b) have a minimum existing lot of 600m<sup>2</sup> for detached dual occupancy, or minimum 400m<sup>2</sup> for attached dual occupancy;
  - (c) have minimum resultant lots of 300m<sup>2</sup> for detached dwellings, or minimum 200m<sup>2</sup> for attached dwellings;
  - (d) have all building services and drainage construction (including water, sewer, telephone, electricity, gas and stormwater) serving each dwelling house independently or covered by appropriate easements;
  - (e) be consistent with previous approvals for the erection of the building/s, particularly with respect to vehicle parking areas and open space serving each dwelling house; and
  - (f) have paid the relevant section 94 contributions prior to issue of Subdivision Certificate.

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 1: Subdivision Guidelines*.

**Subdivision (strata) (existing development)**

- (1) Permissible in the following zones. R3: Medium Density Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use; and  
IN2: Light Industry.
- (2) The *subdivision (strata)*, shall:
  - (a) be serviced by a reticulated sewerage system;
  - (b) for residential development, be ready for initial occupation;
  - (c) for industrial development, be ready for initial occupation;
  - (d) have all site works associated with the development, completed and consistent with the development consent;

- (e) have parking allocated to units in accordance with the development consent and visitor parking designated as common property;
- (f) have no encroachments; and
- (g) not create any development lots (defined as those created by a strata scheme, being subject to a future development consent / plan of subdivision under a development scheme).

**Notes:** See *Cessnock DCP 2008, Part D: Specific Development, Chapter 1: Subdivision Guidelines*.

### **Temporary Events (minor)**

- (1) Permissible in all zones.
- (2) Must not be conducted:
  - (a) on land that is subject to contamination.
- (3) The *temporary event (minor)*, shall:
  - (a) include civic events and official ceremonies organised by Cessnock City Council, (e.g. ANZAC Day March); and
  - (b) be temporary events where the total number of participants and spectators is less than 500 people.

**Notes:** *Cessnock DCP 2008, Part D: Specific Development, Chapter 8: Temporary Events*.

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

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m<sup>2</sup>.
- (3) Must be located within at least 3.0 metres from any boundary adjoining a public road and at least 1.0 metre from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m<sup>2</sup>;
  - (b) 2 exits in any other case.
- (5) Width of each exit must be at least:
  - (a) 800mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>; or
  - (b) 1.0 metre in any other case.
- (6) Height of the walls must not exceed:
  - (a) 4.0 metres if erected on private land; or
  - (b) 5.0 metres in any other case.
- (7) Height (as measured from the surface on which the or marquee is erected to the highest point of the tent or marquee must not exceed 6.0 metres.
- (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
  - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*;

- (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*;
  - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
- (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

**Trees** (removal, ringbarking, lopping, topping or injuring)

- (1) Permissible in the following zones. RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Centre;  
B4: Mixed Use;  
B7: Business Park;  
IN1: General Industrial;  
IN2: Light Industry;  
IN3: Heavy Industry;  
SP2: Infrastructure;  
RE1: Public Recreation; and  
RE2: Private Recreation.
- (2) The *trees (removal, ringbarking, lopping, topping or injuring)*, shall:
- (a) have a maximum height of 3.0 metres or crown spread of 3.0 metres;
  - (b) permit the minor pruning of trees;
  - (c) permit the removal of trees or branches which are dead;
  - (d) permit pruning for ornamental purposes where such pruning is an accepted practice;
  - (e) permit the removal of noxious or undesirable trees or shrubs, including: cinnamomum species - Camphor Laurel; salix species - Willow Tree; ailanthus species - Tree of Heaven; populus species – Poplars; and robina psuedvacacia - False Acacia;
  - (f) permit the removal of any tree which has a trunk less than 3.0 metres from the outermost projection of a building;
  - (g) be removed as per an approved development. Tree removal or pruning is restricted to those specific areas where it is necessary to carry out earthworks, building works, service installation and pavement construction. Tree removal or pruning is to be restricted to an area which is no greater than 3.0 metres from the above construction works.
  - (h) be removed or lopped or other vegetation that is on or overhanging a public road, where this is necessary for the purpose of roadworks or traffic hazard reduction by a roads authority;
  - (i) where Council is the roads authority, consult with the Community Services Department prior to tree removal or pruning within any road reserve. Clearing shall be confined to those activities necessary for roadworks and hazard reduction;
  - (j) not be within 20 metres of a *prescribed stream*, as defined by the Water Management Act 2000; and
  - (k) not be located on *protected land* which has a:
    - slope of greater than 18<sup>0</sup>;
    - prescribed stream; or
    - identified as 'environmentally sensitive areas' as per clause 3.3.

**Notes:** R5: Large Lot Residential zone has been included, until such time as the Native Vegetation Act, 1993, is amended, to include this zone.

Where a tree is considered dangerous, all reasonable measures are to be made to seek the approval and / or advice of Council's Tree Preservation Officer prior to removal or pruning.

**Water Heaters** (new or replacement, installed on or within an existing building)

- (1) Permissible in all zones.
- (2) The *water heater*, shall:
  - (a) be installed by a licensed person;
  - (b) not involve structural alterations to the building;
  - (c) adequately weatherproof any opening created by the installation;
  - (d) not protrude more than 1.0 metre above the ridge of the roof alignment;
  - (e) not exert any excessive loads to the existing structure;
  - (f) be constructed in non-reflective materials;
  - (g) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (h) for BASIX affected buildings there are no adverse impacts upon the BASIX commitments.

**Windmills** (for pumping water)

- (1) Permissible in the following zones. RU1: Primary Production; and  
RU2: Rural Landscape.
- (2) Must not be constructed:
  - (a) beyond the boundaries of the subject site; or
  - (b) such that it requires a tree to be removed; or
  - (c) within any required or necessary Asset Protection Zones (bushfire);
  - (d) on land that is subject to flooding;
  - (e) on land that is subject to slopes of greater than 20<sup>0</sup>; or
  - (f) on land that is subject to mine subsidence.
- (3) The *windmills (for pumping water)*, shall:
  - (a) be sited wholly within the boundaries of the property and not to encroach onto any registered easement;
  - (b) be freestanding and not rely on other structures for support;
  - (c) be constructed in accordance with engineer's certification for the structure and footings;
  - (d) in bushfire prone areas be constructed to comply with AS 3959 Construction of Buildings in Bushfire-prone areas; and
  - (e) have a maximum height 15 metres.

**Schedule 3**

**Complying development**

(Clause 3.2)



# **Cessnock Local Environmental Plan**

## **Schedule 3 Complying Development**

**PART 1: COMPLYING DEVELOPMENT**

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## **1 COMPLYING DEVELOPMENT**

### **1.1 General Criteria**

For the development to fall into the category of complying development, the person carrying out the use or activity specified in this plan shall comply with the criteria contained in Table 1 of this Schedule.

### **1.2 Comments**

The following Table 1 provides a list of the categories of development that are complying development for the purposes of this Schedule.

It is important to note, that the compliance certificate may only be granted if the development is designed to comply with the relevant requirements or conditions listed in this plan.

In the event that the development does not comply with the preset requirements or conditions then a Development Consent or Construction Certificate will need to be obtained prior to work commencing.

**Note:** Tree removal in urban areas (not subject to the Native Vegetation Act, 1993) is administered by Cessnock City Council and is deemed to be 'exempt development' as per the criteria set out in that Schedule. As stated above, in the event that the development does not comply with the 'criteria', then a Development Consent will need to be obtained prior to any works commencing.

## **PART 2: Complying Development**

### ***Bed & breakfast accommodation***

- (1) Permissible in the following zones: RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core; and  
E3: Environmental Management.
- (2) The *bed and breakfast accommodation*, shall:
  - (a) comply with Council's 'Code for the Conduct of Bed and Breakfast Accommodation'; and
  - (b) be operated by the permanent residents of a dwelling house, which accommodates no more than 4 paying guests, unless all from one family unit, in which case no more than 6.

### ***Commercial uses and building alterations***

- (1) Permissible in the following zones: B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Used; and  
B7: Business Park.
- (2) The *commercial uses and building alterations*, shall relate to:
  - (a) change of use from a shop to an office, or from an office to a shop; or
  - (b) internal alterations or fit-out (and any necessary demolition associated with the alterations).
- (3) The *commercial uses and building alterations*, shall:
  - (a) be to or within an existing approved use and not be based on existing use rights (ie. where the current use is prohibited in the zone);
  - (b) comply with existing development consent conditions;
  - (c) not change any arrangements for access / parking, loading and waste disposal;
  - (d) not increase or intensify the use, including such matters as: noise generation; hours of operation; and traffic generation;
  - (e) not increase the fire load in the structure;
  - (f) not be for food preparation, skin penetration, beauty salons, hairdressing or the like;
  - (g) not be for drug use rehabilitation clinic, including methadone clinics;
  - (h) not have a gross floor area of more than 2,000m<sup>2</sup>.

### ***Commercial Vineyards (new or expansion)***

- (1) Permissible in the following zone: RU1: Primary Production.
- (2) The ***commercial vineyards (new or expansion)***, shall:
  - (a) comply with the spray drift / noise separation distance / vegetation / chemical spray drift buffer requirements of Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District;
  - (b) where clearing occurs, replace the equivalent amounts of native vegetation in accordance with the requirements of Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District;
  - (c) be located outside areas designated as native vegetation corridors in Cessnock DCP 2008, Part E: Specific Areas, Chapter 3: Vineyards District;
  - (d) not be located within 20 metres of a watercourse; and
  - (e) be located on slopes of less than 15<sup>0</sup>.

### ***Decks and pergolas (attached to dwelling houses)***

- (1) Permissible in all zones.
- (2) The ***decks and pergolas (attached to dwelling houses)***, shall:
  - (a) be roofed but shall remain unenclosed on the sides;
  - (b) be located behind the front building line;
  - (c) not reduce the required solar access provisions below the minimum requirement for itself or adjoining dwellings;
  - (d) have a maximum area of 30m<sup>2</sup>;
  - (e) have a finished floor level of not greater than 1.5 metres above ground level;
  - (f) have a minimum side and rear boundary setback of 5.0 metres;
  - (g) connect the roofwater to the existing on-site stormwater drainage system; and
  - (h) have a maximum width of 3.0 metres.

### ***Demolition of development***

- (1) Permissible in all zones.
- (2) The ***demolition of development***, shall:
  - (a) not include any heritage item or structure within a Heritage Conservation Area as defined in any draft or adopted environmental planning instrument;
  - (b) comply with AS 2601;
  - (c) not use explosive methods;
  - (d) seal off all services; and
  - (e) dispose and manage waste material in accordance with Cessnock DCP 2008, Part C: General Guidelines, Chapter 5: Waste Management & Minimisation.

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***Dwelling houses (minimum lot size 450m<sup>2</sup>)***

- (1) Permissible in the following zones: RU5: Village;  
R2: Low Density Residential; and  
R3: Medium Density Residential.
- (2) The *dwelling houses (single storey detached, alterations and additions, plus related development including garages and carports)*, shall:
  - (a) have a minimum lot size of 450m<sup>2</sup> or 600m<sup>2</sup> for battle-axe lots (excluding the handle).
- (3) Siting, shall:
  - (a) comply with the relevant building line, as stated in Cessnock Development Control Plan 2008 or Council's Building Line Policy No.B32.4; and
  - (b) for garages and carports facing a public street or laneway, be not more than 6.3 metres wide or 50 percent of the width of the lot at the building line, whichever is the greater, and are to be at least 1.0 metre from any public vehicular laneway from which they are accessed at the side or rear of the property.
- (4) General, shall:
  - (a) for work other than new dwelling houses, the colours, materials and rooflines are to complement those on the existing dwelling house; and
  - (b) obtain a satisfactory BASIX Certificate.
- (5) Bulk and scale, shall:
  - (a) have a maximum distance between the ground floor level of the structure at any point and natural ground level of 1.0 metre;
  - (b) have a height between the floor and the ceiling that is not more than 3.0 metres (except the garage);
  - (c) have a maximum height (generally roof ridge) of 6.0 metres above natural ground level for any structure;
  - (d) provide details of any retaining walls over 900mm in height above natural ground level, which shall include an Engineer's Certificate;
  - (e) have the external walls / columns of any dwelling house at least 900mm from the side and rear boundaries and any eave or related development is at least 450mm from side and rear boundaries;
  - (f) not result in more than one dwelling house or occupancy on the property;
  - (g) not reduce the principal area of ground-level private open space of adjacent properties, to less than 2 hours direct sunlight between 9:00 am and 3:00pm on June 21 (mid-winter), taking into consideration the topography of the site, fences and existing structures; and
  - (h) have a roof pitch that is no more than 35<sup>o</sup> and any roof openings are parallel with the roof and extend no more than 150mm above the adjacent surface of the roof.
- (6) Open space and landscaping, shall:
  - (a) have a minimum 20% of the lot as soft landscaping (ie. not a hard or paved surface) to the rear of the lot, or accessible from the main living area of the dwelling house; and
  - (b) not have more than one-third of the front yard, paved or sealed.
- (7) Drainage, shall:
  - (a) convey roofwater to the street drainage system or an inter-allotment drainage system in accordance with Council's 'Engineering Requirements for Development'.

- (8) Vehicular access, shall:
- (a) have legal vehicular access available directly from a public road; and
  - (b) have driveways that:
    - (i) are located so as not to result in the removal of street trees and shrubs in public road reserves;
    - (ii) have a minimum of 500mm clear of all drainage pits / sumps in the public road reserve;
    - (iii) have a minimum of 6.0 metres from a road intersection;
    - (iv) match the cross-grade of the footway in the area that they cross;
    - (v) have a maximum grade of 1 in 4;
    - (vi) are perpendicular to the road in the area that they meet; and
    - (vii) are constructed in accordance with Council's 'Engineering Requirements for Development'.

***Dwelling houses (minimum lot size 4,000m<sup>2</sup>)***

- (1) Permissible in the following zones: R5: Large Lot Residential.
- (2) The *dwelling houses (detached up to two storeys, alterations and additions, plus related development including garages and carports)*, shall:
- (a) have a minimum lot size greater than 4,000m<sup>2</sup>.
- (3) Siting, shall:
- (a) comply with the relevant building line, as stated in Cessnock Development Control Plan 2008 or Council's Building Line Policy No.B32.4; and
  - (b) for garages and carports facing a public street or laneway, be not more than 6.3 metres wide and are to be at least 1.0 metre from any public vehicular laneway from which they are accessed at the side or rear of the property.
- (4) General, shall:
- (a) for work other than new dwelling houses, the colours, materials and rooflines are to complement those on the existing dwelling house; and
  - (b) obtain a satisfactory BASIX Certificate.
- (5) Bulk and scale, shall:
- (a) have a maximum distance between the ground floor level of the structure at any point and natural ground level of 1.0 metre;
  - (b) have a height between the floor and the ceiling above that is not more than 3.0 metres (except the garage);
  - (c) have a maximum height (generally roof ridge) of 7.2 metres above natural ground level for any structure;
  - (d) provide details of any retaining walls over 900mm in height above natural ground level, which shall include an Engineer's Certificate;
  - (e) have the external walls / columns of any dwelling house at least 3.0 metres from the side and rear boundaries and any eave or related development is at least 2.5 metres from side and rear boundaries;
  - (f) not result in more than one dwelling house or occupancy on the property;
  - (g) not reduce the principal area of ground-level private open space of adjacent properties, to less than 2 hours direct sunlight between 9:00 am and 3:00pm on June 21 (mid-winter), taking into consideration the topography of the site, fences and existing structures; and
  - (h) have a roof pitch that is no more than 35<sup>0</sup> and any roof openings are parallel with the roof and extend no more than 150mm above the adjacent surface of the roof.

- (7) Drainage, shall:
- (a) convey roofwater to the street drainage system, an inter-allotment drainage system, a water tank or an absorption trench disposal area, in accordance with Council's 'Engineering Requirements for Development' and with Council's Water Tank Policy where a domestic water tank is used.
- (8) Vehicular access, shall:
- (a) have legal vehicular access available directly from a public road; and
  - (b) have driveways that:
    - (i) are located so as not to result in the removal of street trees and shrubs in public road reserves;
    - (ii) have a minimum of 500mm clear of all drainage pits / sumps in the public road reserve;
    - (iii) have a minimum of 6.0 metres from a road intersection;
    - (iv) match the cross-grade of the footway in the area that they cross;
    - (v) have a maximum grade of 1 in 4;
    - (vi) are perpendicular to the road in the area that they meet; and
    - (vii) are constructed in accordance with Council's 'Engineering Requirements for Development'.
- (9) Buffers, shall:
- (a) comply with the requirements of Cessnock Development Control Plan 2008, Part C: General Guidelines, Chapter 4: Land Use Conflict & Buffer Zones, and Part E: Specific Areas, Chapter 3: Vineyards District, as applicable.

### ***Farm buildings***

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R5: Large Lot Residential; and  
E3: Environmental Management.
- (2) The *farm buildings*, shall:
- (a) have a maximum floor area of 120m<sup>2</sup>;
  - (b) have a roofline that does not protrude above natural ridge lines when viewed from adjacent properties, public areas or public roads;
  - (c) have a maximum ridge height of 6.0 metres;
  - (d) for external cladding, be of low reflectivity and earth tone colours;
  - (e) discharge roofwater to a water tank;
  - (f) not be used for residential, commercial or industrial uses;
  - (g) have a minimum side and rear boundary setback of 20 metres; and
  - (h) be located behind the building line and not in front of the dwelling house.

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### ***Industrial uses and building alterations***

- (1) Permissible in the following zones: IN1: General Industrial;  
IN2: Light Industrial; and  
IN3: Heavy Industrial.
- (2) The *industrial uses*, shall:
  - (a) permit the initial use of an industrial building or warehouse, or change of use to another industrial use on land zoned industrial, where its use is not for a hazardous or offensive industry, or a hazardous or offensive storage establishment;
  - (b) permit internal alterations (and any necessary demolition associated with the alterations);
  - (c) not increase to the gross floor area of the building;
  - (d) not apply, where the gross floor area involved is more than 2,000m<sup>2</sup>;
  - (e) for changes of building use, the new use shall operate in accordance with the existing development consent;
  - (g) not be for skin preparation, packaging or storage of food products;
  - (h) not be based on existing use rights (ie. where the current use is prohibited in the zone);
  - (i) require an occupation certificate or final inspection for the building; and
  - (j) not have an aggregated floor area of office space, that is more than 10% of the gross floor area of the building.

### ***Place of public entertainment***

- (1) Permissible in the following zones. RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
B7: Business Premises;  
IN1: General Industrial;  
IN2: Light Industrial;  
IN3: Heavy Industrial;  
RE1: Public Recreation;  
RE2: Private Recreation;  
E2: Environmental Conservation; and  
E3: Environmental Management.
- (2) The *place of public entertainment*, shall:
  - (a) use an existing building comprising licensed premises or public hall;
  - (b) not have a floor area exceeding 300m<sup>2</sup>, for the part of the building used as a place of public entertainment;
  - (c) have at least 2 exits from the finished floor level of the part of the building used as a place of public entertainment to the ground level external to the building, a road or open space; and
  - (d) not have the total vertical travel via any stairs or steps at any such exit exceeding 1.5 metres.

**Note:** A reference to a building does not include a reference to a temporary structure, SEPP: Temporary Structures and Places of Public Entertainment.

### **Single tent or marquee**

- (1) Permissible in all zones.
- (2) The *single tent or marquee*, shall:
  - (a) be erected on licensed premises and used as a place of public entertainment;
  - (b) be located at least 50 metres from any residential accommodation;
  - (c) have a floor area of not more than 100m<sup>2</sup>;
  - (d) be located at least 3.0 metres from any boundary of the land concerned;
  - (e) have a wall height of not more than 5.0 metres;
  - (f) have a height, as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee, of not more than 6.0 metres; and
  - (g) resists loads determined in accordance with the Australian and New Zealand standards entitled:
    - (i) AS/NZS 1170.0:2002, *Structural design actions-General principles*, and
    - (ii) AS/NZS 1170.1:2002, *Structural design actions-Permanent, imposed and other actions*, and
    - (iii) AS/ NZS 1170.2:2002, *Structural design actions-Wind actions*.

**Note:** A reference to a building does not include a reference to a temporary structure, SEPP: *Temporary Structures and Places of Public Entertainment*.

### **Stage or platform**

- (1) Permissible in the following zones. B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
B7: Business Premises;  
IN1: General Industrial;  
IN2: Light Industrial;  
IN3: Heavy Industrial;  
RE1: Public Recreation; and  
RE2: Private Recreation.
- (2) The *stage or platform*, shall:
  - (a) be erected and used for a community event on specified land;
  - (b) have a floor area of not more than 100m<sup>2</sup>;
  - (c) be located at least 3.0 metres from any boundary of the land;
  - (d) have a height, as measured from the ground level to the floor of the stage or platform, is not more than 1.0 metre;
  - (e) resists loads determined in accordance with the Australian and New Zealand standards entitled:
    - (i) AS/NZS 1170.0:2002, *Structural design actions-General principles*, and
    - (ii) AS/NZS 1170.1:2002, *Structural design actions-Permanent, imposed and other actions*, and
    - (iii) AS/ NZS 1170.2:2002, *Structural design actions-Wind actions*.

**Note:** A reference to a building does not include a reference to a temporary structure, SEPP: *Temporary Structures and Places of Public Entertainment*.

## **Swimming pools**

- (1) Permissible in the following zones: RU1: Primary Production;  
RU2: Rural Landscape;  
RU5: Village;  
R2: Low Density Residential;  
R3: Medium Density Residential;  
R5: Large Lot Residential;  
E2: Environmental Conservation; and  
E3: Environmental Management.
- (2) The *swimming pool*, shall:
- (a) include the coping, decking and fences ancillary to the pool;
  - (b) be on lots greater than 450m<sup>2</sup> and on land on which a dwelling house exists;
  - (c) be for private use only;
  - (d) not be located between the dwelling house and the front boundary;
  - (e) have all coping or decking around the pool, not more than 750mm above natural ground level.
  - (f) be a minimum 1.0 metre from the nearest side and rear boundaries, including coping & decking;
  - (g) noise emissions must not be audible inside the interior of any adjoining dwelling between 10:00pm and 7:00am on weekdays, and between 10:00pm and 8:00am on Saturdays, Sundays and public holidays. At all other times, noise levels must not exceed 5dBA above the ambient background noise level measured at the allotment boundary;
  - (h) have the back wash connected to the sewer. Where sewer is not available, the filtration system shall only incorporate a cartridge type filter which does not require backwashing;
  - (i) have perimeter drainage, that directs all splash or spill-over away from adjoining properties;
  - (j) have a safety barrier/s provided in accordance with the Swimming Pool Act and Regulations; and
  - (k) be installed and constructed to comply with:
    - (i) AS/NZS 1838:1994 Swimming pools – Premoulded fibre-reinforced plastics – Design and fabrication;
    - (ii) AS/NZS 1839 – 1994 Swimming pools – Premoulded fibre-reinforced plastics – Installation; or
    - (iii) AS 2783 – 1992 Use of reinforced concrete for small swimming pools.

## **Tennis Courts**

- (1) Permissible in the following zones: RU1: Primary Production;  
RU2: Rural Landscape; and  
R5: Large Lot Residential.
- (2) The *tennis court*, shall:
- (a) not install artificial lighting;
  - (b) have perimeter drainage, that directs water away from adjoining properties;
  - (c) have a maximum height of cut and fill, not exceeding 600mm; and
  - (d) have a minimum setback of 50 metres from any dwelling house on an adjoining property.

***Tent, marquee or booth (on land for a community event)***

- (1) Permissible in the following zones. B1: Neighbourhood Centre;  
B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
B7: Business Premises;  
IN1: General Industrial;  
IN2: Light Industrial;  
RE1: Public Recreation; and  
RE2: Private Recreation.
- (2) The *tent, marquee or booth*, shall:
- (a) have a floor area that is not more than 200m<sup>2</sup>;
  - (b) have a total floor area (all tents, marquees or booths erected on the land at the same time) that is not more than 400m<sup>2</sup>;
  - (c) be located at least 3.0 metres from any boundary of the land;
  - (d) in the case of a tent or marquee, not have a wall height of more than 5.0 metres;
  - (e) not have a height of more than 6.0 metres, as measured from the surface to the highest point;
  - (f) have at least the following number of exits arranged so as to afford a ready means of egress to open space or a road:
    - (i) in the case of a tent or marquee having a floor area of more than 25m<sup>2</sup> — 2 exits; and
    - (ii) in any other case — 1 exit.
  - (g) have a width of each exit referred to in paragraph (f) of at least:
    - (i) 800mm if the floor area is less than 150m<sup>2</sup>; or
    - (ii) 1.0 metre in any other case.
  - (h) resists loads determined in accordance with the Australian and New Zealand Standards entitled:
    - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*; and
    - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*; and
    - (iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
  - (i) in the case of a tent or marquee used as a place of public entertainment as part of a community event:
    - (i) no more than 1 other tent or marquee is used on the land as a place of public entertainment; and
    - (ii) the total floor area of any tents or marquees used on the land as a place of public entertainment is not more than 200m<sup>2</sup>.

**Note:** A reference to a building does not include a reference to a temporary structure, SEPP: *Temporary Structures and Places of Public Entertainment*.

### ***Warehouse to warehouse***

- (1) Permissible in the following zones. B2: Local Centre;  
B3: Commercial Core;  
B4: Mixed Use;  
B7: Business Premises;  
IN1: General industrial;  
IN2: Light Industrial; and  
IN3: Heavy Industrial.
  
- (2) The *warehouse to warehouse*, shall:
  - (a) have a gross floor area in excess of 500m<sup>2</sup>.
  - (b) not increase in the gross floor area of the building;
  - (c) be an existing approved use and not reliant on 'existing use rights' (ie. where the current use is prohibited in the zone);
  - (d) not change the access / parking, loading and waste disposal arrangements;
  - (e) not increase in intensity of use, including noise generation, hours of operation, traffic generation;
  - (f) not increase the fire load in the structure; and
  - (g) not include food related operations.

### ***Waterbody artificial (dams)***

- (1) Permissible in the following zone: RU2: Rural Landscape.
  
- (2) The *waterbody artificial (dam)*, shall:
  - (a) have a capacity of between 3 to 7 mega-litres; and
  - (b) be in accordance with Cessnock DCP 2008, Part D: Specific Development, Chapter 7: Construction of Dams.

**Note.** Approval may also be required from the Department of Water and Energy.

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## **PART 3: Complying development certificate conditions (general)**

### ***Before you begin work***

- (1) Two days before any site works, building or demolition begins, the applicant shall:
  - (a) forward a Notice of Intention to Commence Work and Appointment of Principal Certifying Authority (Sections 135 & 136 of the Environmental Planning and Assessment Regulation 2000) to Cessnock City Council; and
  - (b) inform the adjoining owners in writing that work will commence.
  
- (2) Before any site works, building or demolition begins, the applicant shall:
  - (a) notify the Council of the name, address, phone number and licence number of the builder;
  - (b) erect a sign in a prominent position (usually at the front of the property) containing the following information:
    - (i) showing the name, address and telephone number of the principal certifying authority for the work;
    - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
    - (iii) stating that unauthorised entry to the site is prohibited.
  - (c) the sign shall also contain the builder's name, licence number, site address and the number given by the Council to the application for the complying development certificate;
  - (d) provide a temporary on-site toilet if access to the existing toilets is not adequate;
  - (e) protect and support any neighbouring buildings and land;
  - (f) protect any public land or place from obstruction, inconvenience or damage due to the carrying out of the development;
  - (g) prevent any substance from falling onto any public land or place;
  - (h) pay any Section 94 contributions if required by a contributions plan applying to the land; and
  - (i) comply with any other conditions prescribed by the Environmental Planning and Assessment Regulation 2000.

**Note.** *This item does not impose a requirement on an applicant if complied with by the builder.*

### ***Site Management***

- (3) Run-off and erosion controls shall be implemented before work commences to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
  - (a) divert uncontaminated run-off around cleared or disturbed areas;
  - (b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
  - (c) prevent tracking of sediment by vehicles onto roads; and
  - (d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
  
- (4) Removal or disturbance of vegetation and topsoil shall be confined to within 3.0 metres of the proposed building.

### ***Demolition***

- (5) Any demolition works authorised by the certificate shall be carried out in accordance with AS 2601-1991. The demolition of structures shall comply with Cessnock Development Control Plan 2008, Part C: General Guidelines, Chapter 5: Waste Management and Minimisation.

### ***Drainage***

- (6) The completed building shall have a drainage system, such that:
- (a) the land surrounding any structure is graded to divert surface water to the street, and is clear of existing and proposed structures and adjoining premises; and
  - (b) if the water drains to the rear of the property, it is collected and drained via a gravity system (inter-allotment drain) to a Council stormwater line.

### ***Hours of works***

- (7) Any building work shall be carried out between 7:00 am and 7:00 pm Monday to Friday, and 8:00 am to 7:00 pm Saturdays, Sundays and public holidays.

### ***Construction within boundaries***

- (8) The owner of the property is to ensure that any structure constructed, shall:
- (a) meet the setback requirements of the approved plans; and
  - (b) be located within the confines of the lot.
- (9) Compliance with Council's policy on the provision of Survey Certificates.

### ***Site access***

- (10) If kerb and gutter is provided, driveways are to be a minimum of 500mm clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.
- (11) If kerb and gutter is not provided, the access to the lot shall be constructed using a:
- (a) gravel vehicular entrance incorporating a 375mm diameter stormwater pipe and concrete headwalls; or
  - (b) 6.0 metre by 6.0 metre concrete slab dish drain.
- (12) Driveways are to be constructed in accordance with any relevant requirements of AS 2890.1-1993 Parking facilities Part 1: Off-street car parking, with appropriate transition zones.

### ***Sewer and drainage approval***

- (13) Before building work is commenced an approval from the Hunter Water Corporation shall be obtained, if required, for the water and sewerage connection.

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**PART 3A: Complying development certificate conditions for temporary structures and places of public entertainment**

**(1) *Erection and use of tent, marquee, booth, stage or platform***

The conditions applying to a complying development certificate for the erection and use of a temporary structure comprising a tent, marquee, booth, stage or platform are as follows:

- (a) the structure must be erected at ground level;
- (b) trees growing on the land on which the structure is erected or on adjoining land must not be damaged as a result of the erection or use of the structure;
- (c) arrangements must be in place for the collection of any waste or recyclable materials likely to be generated as a result of the use of the structure;
- (d) the structure must be dismantled and removed from the land within 2 days after the conclusion of the event or activity for which it has been erected;
- (e) in the case of a structure used for a community event:
  - (i) the event (excluding any part of the event involving the provision of public entertainment on licensed premises) may take place only within the following times:
    - (A) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday;
    - (B) 7.30 am to midnight on Friday or Saturday;
    - (C) 8.00 am to 8.00 pm on Sunday; and
  - (ii) the event is covered by public liability insurance of an amount of at least \$10 million; and
  - (iii) the structure may be erected on the land for no more than 14 days;
- (f) in the case of the erection and use of a stage or platform, a notice indicating the actual distributed and concentrated load for which the stage or platform has been designed must be conspicuously displayed on the stage or platform;
- (g) in the case of the erection and use of a tent or marquee on licensed premises (being a tent or marquee that is used as a place of public entertainment and not for a community event):
  - (i) the tent or marquee must be erected in an outdoor area comprising a courtyard, beer garden or the like; and
  - (ii) the tent or marquee may be erected on the premises for no more than 90 days; and
  - (iii) the number of days for which the tent or marquee is erected, together with the total number of days for which tents or marquees have previously been erected on the premises in the calendar year in which the use of the tent or marquee as a place of public entertainment is proposed to take place, must not exceed 90 days.

**(2) *Use of tent or marquee as place of public entertainment***

- (1) The conditions applying to a complying development certificate for the use of a tent or marquee as a place of public entertainment are as follows:
  - (a) any applicable conditions set out in clause 1;
  - (b) the number of people who are in the tent or marquee at any one time while entertainment is being provided must not exceed the number of square metres of the floor area of the tent or marquee;

- (c) a person must be appointed to ensure that paragraph (b) is complied with;
- (d) a sign must be displayed in a prominent position in the tent or marquee that specifies:
  - (i) the maximum number of persons who are permitted in the tent or marquee at any one time while entertainment is being provided, calculated in accordance with paragraph (b); and
  - (ii) the name, address and telephone number of the council of the area in which the tent or marquee is located;
- (e) except as provided by paragraph (f), no more than one other tent or marquee that is erected on the land, at the same time, may be used as a place of public entertainment;
- (f) if the tent or marquee is erected on licensed premises, no other tent or marquee that is erected on the premises, at the same time, may be used as a place of public entertainment;
- (g) if the tent or marquee is erected on licensed premises, entertainment may take place only within the following times:
  - (i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday;
  - (ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday;
  - (iii) 8.00 am to midnight on New Year's Eve;
  - (iv) in the case of New Year's Day- midnight to 2.00 am in addition to any times provided for in subparagraph (i) or (ii);
- (h) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment:
- (i) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:
  - (i) at the boundary of the lot on which any residential accommodation is located; and
  - (ii) if the tent or marquee is on the same lot as a building containing any residential accommodation—on the outside wall of the building.

- (2) Subclause (1) (i)(i) does not apply in relation to any boundary of the lot on which the tent or marquee is located unless that boundary is shared with another lot on which residential accommodation is located.

(3) ***Use of stage or platform for public entertainment***

- (1) The conditions applying to a complying development certificate for the use of a temporary structure comprising a stage or platform for the purpose of public entertainment are as follows:
  - (a) any applicable conditions set out in clause 1;
  - (b) if the stage or platform is erected on licensed premises, entertainment may take place only within the following times:
    - (i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday;

- (ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday;
      - (iii) 8.00 am to midnight on New Year's Eve;
      - (iv) in the case of New Year's Day - midnight to 2.00 am in addition to any times provided for in subparagraph (i) or (ii);
    - (c) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment;
    - (d) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:
      - (i) at the boundary of the lot on which any residential accommodation is located; and
      - (ii) if the stage or platform is on the same lot as a building containing any residential accommodation—on the outside wall of the building.
  - (2) Subclause (1) (d) (i) does not apply in relation to any boundary of the lot on which the stage or platform is located unless that boundary is shared with another lot on which residential accommodation is located.
- (4) ***Use of existing building (other than temporary structure) as place of public entertainment***
- (1) The conditions applying to a complying development certificate for the use of an existing building (other than a temporary structure) as a place of public entertainment are as follows:
    - (a) arrangements must be in place for the collection of any waste or recyclable materials generated as a result of the use of the building as a place of public entertainment;
    - (b) entertainment may take place only within the following times:
      - (i) except as provided by subparagraphs (iii) and (iv), 10.00 am to 10.00 pm on Sunday;
      - (ii) except as provided by subparagraph (iv), 8.00 am to midnight on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday;
      - (iii) 8.00 am to midnight on New Year's Eve;
      - (iv) in the case of New Year's Day—midnight to 2.00 am and as provided for in subparagraph (i) or (ii);
    - (c) if entertainment concludes after 10.00 pm, a person must be appointed to assist with the quiet and orderly dispersal of the audience of the entertainment;
    - (d) entertainment must take place, and its audience must be located, in only one part of the existing building, being on the ground floor of the building;
    - (e) the number of persons occupying any floor area, in the part of the existing building used as a place of public entertainment, that contains seating in rows or that is set aside as standing room or for dancing must not exceed the fewest of the following at any time while entertainment is being provided:
      - (i) 300 persons; or

- (ii) an average of 1 person per 0.66 square metre of that floor area;
- (f) the number of persons occupying any floor area (other than the floor area referred to in paragraph (e)) in the part of the existing building used as a place of public entertainment must not exceed 1 person per square metre of that floor area at any time while entertainment is being provided;

**Note.** *The floor area of the part of the building used as a place of public entertainment must not exceed 300 square metres where the building concerned comprises licensed premises or a public hall. (See clause 4 of Schedule 3).*

- (g) a person must be appointed to ensure that paragraphs (e) and (f) are complied with;
  - (h) a sign must be displayed in a prominent position in the part of the existing building to be used as a place of public entertainment that specifies:
    - (i) the maximum number of persons who are permitted in the building at any one time while entertainment is being provided, calculated in accordance with paragraphs (e) and (f); and
    - (ii) the name, address and telephone number of the council of the area in which the building is located; and
    - (iii) the name and business telephone number of an owner or manager of the part of the building concerned;
  - (i) the  $L_{A10}$  noise level emitted while entertainment is being provided (as determined in accordance with Australian Standard AS 1055.1—1997, *Acoustics—Description and measurement of environmental noise, Part 1: General procedures*) must not exceed the ambient background noise level ( $L_{A90}$ ) in any octave band centre frequency (31.5Hz to 8KHz inclusive) by more than 5dB:
    - (i) at the boundary of the lot on which any residential accommodation is located; and
    - (ii) if the existing building is on the same lot as (but not in) a building containing any residential accommodation—on the outside wall of the building containing that accommodation; and
    - (iii) if the existing building contains any residential accommodation — within the residential premises concerned.
- (2) Subclause (1) (i)(i) does not apply in relation to any boundary of the lot on which the existing building is located unless that boundary is shared with another lot on which residential accommodation is located.

**Note:** *SEPP: Temporary Structures and Places of Public Entertainment.*

**Schedule 4 Classification and reclassification of public land** (Clause 5.2)

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

**NIL**

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

**NIL**

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

**NIL**

## Schedule 5 Environmental heritage

(Clause 5.10)

### Draft SCHEDULE 5 ENVIRONMENTAL HERITAGE

#### PART 1 - HERITAGE ITEMS - INDIGENOUS & NON INDIGENOUS

##### Notes

1340173 *the seven digit number denotes a unique identifier for listed item which corresponds to data contained in the state heritage inventory sheets and heritage mapping held at Council*

\*

*the asterisk denotes archaeological sites or sites containing actual or potential archaeological deposits*

**Please note:** *the heritage schedule contains heritage sites which span multiple sites in differing parts of the local government area. It is advised that groups listed under the heading "Areas, Complex and Groups", located at the end of part 1 of the schedule, is referred to when searching for a listing.*

ITEM No.	NAME	ADDRESS	PROPERTY DESCRIPTION	LEVEL of SIGNIFICANCE
ABERDARE	Caledonia Hotel (1340173)	110 Aberdare Street, Aberdare	Lots 17 & 18, Sec 3, DP 758002	Local
ABERDARE	Cessnock Public School (1340191)	Block bound by Rawson, Brandis Streets, Aberdare Road & Quarrybylong Street, Kurri Kurri	Sec 41, DP 758002	Local
ABERDARE	Aberdare Cemetery (1340465;*)	134 Greta Street, Aberdare	DP 755215	Local

ABERDARE	Caledonian Colliery Co. House (former; 1340489)	44 Quarrybylong Street, Cessnock	Lot 566, DP 821172	Local
ABERDARE	Presbyterian Church (former; 1340490)	108 Northcote Street, Aberdare	Lot 11, Sec 23, DP 758002	Local
ABERDARE	Co-op Store Branch No.2 Aberdare (1340491)	61 Northcote Street, cnr Mulbring Street, Aberdare	Lot 1, Sec 31, DP 758002	Local
ABERDARE	Butcher's Shop (1340492)	49 Northcote Street, Aberdare	Lot 4, DP 758002	Local
ABERMAIN	South Maitland mines rescue station and houses group (1340063)	47 - 55 Armidale Street, 19 Bathurst Street & 40 - 50 Tamworth Street, Abermain	Lots 2 - 6, 11 & 12, DP 264533 and Lots 17 - 20, DP 7327294	State
ABERMAIN	Denman Hotel (1340117)	141 Cessnock Road cnr Alfred Street, Abermain	Lot 101, DP 740708	Local
ABERMAIN	Abermain school of Arts (1340211)	209 Cessnock Road, Abermain	Lot 16, Sec 32, DP 758004	Local
ABERMAIN	Abermain Hotel (1340470)	25-27 Charles Street cnr William Street, Abermain	Lot 1, DP 76277	Local
ABERMAIN	Abermain War Memorial (1340486)	Cessnock Road, Abermain	Lot 539, DP 755231	Local
ABERMAIN	Shop (1340493)	277 Cessnock Road, Abermain	Lot 14, Sec 2, DP 758004	Local
ABERMAIN	Abermain Public School (1340494)	Melbourne Street Cnr Gou burn Street, Abermain	Lots 1 & 2, DP 758004	Local
ABERMAIN	Tubby's Takeaway (1340495)	43 Melbourne Street, Abermain	Lot 1, Sec 6, DP 758004	Local
ABERMAIN	Kurri Kurri Co-op Soc Ltd store (1340496)	195 Cessnock Road, Abermain	Lot 13, Sec 32, DP 758004	Local
ABERMAIN	Bakery (1340497)	139 Cessnock Road, Abermain	Lot 2, DP 120482	Local
ABERMAIN	Bridge (1340498)	Cessnock Road, between Slone & Elizabeth Streets		Local
			within road reserve	

ABERMAIN	Kurri Kurri Co-op Soc Ltd Butcher's shop (1340499)	193 Cessnock Road, Abermain	Lot 12, Sec 32, DP 758004	Local
ABERMAIN	Abermain Colliery Houses (former; 1340728)	71 Charles Street, Abermain	Lot, 320 DP 720709	Local
ABERMAIN	Sandstone, kerb, gutters, roads in Abermain (1340844; *)	Cessnock Road, northern side between Gou burn and Bathurst Streets		Local
ABERNETHY	Abernethy House (1340480)	20 Ferguson Street, Abernethy	within road reserve Lot 19 & 9, Sec 4, DP 758005	
ALLANDALE	Dunoon (1340061; *)	Lovedale Road, Allandale	Lot 1, DP 383340, Lot 1, DP 434185, Lot 266, DP 755211	Local
ALLANDALE	Wills Hill early agricultural track corridor (1340502; *)	Wills Hill Road, Allandale	Part Lots 1 - 5, DP 1048155 and road reserve	Local
BELLBIRD	Bellbird Hotel (1340175)	388 Wollombi Road, Bellbird	Lots 2 - 4, Sec F, DP 6264	Local
BELLBIRD	Bellbird Mines Disaster Memorial (1340503)	Wollombi Road corner Kendal Street, Bellbird	Lot 27, Sec 7, DP 758082	Local
BELLBIRD	Bellbird Uniting Church (1340504)	478 Wollombi Road, Bellbird	Lot 13, Sec 3, DP 758082	Local
BRANXTON	Branxton Courthouse and Police Station Group (former; 1340058)	52 Cessnock Road, Branxton	Part Lot 1, DP 193878	Local
BRANXTON	Branxton Maitland Road Shops & Houses Group (1340066)	50, 52, 56, 58, 60, 62, 64, 66, 68, 70 & 72 Maitland Road, Branxton	Lot 24, DP 628173, Lot 230 & 231, DP791248, Lot 4, DP 1047308, Lot 41, DP 1109178, Lot 1, DP 779515, Lot 1, DP 213879, Lot 6, DP 1106094, Lot 3, DP 1101838	Local
BRANXTON	Branxton Railway Station Group (1340213)	Corner Station and Railway Streets, Branxton	DP 755211	Local
BRANXTON	Branxton Railway Cottage (former; 1340730)	5 Station Street, Branxton	Lot 10, DP 786043	Local
BRANXTON	2 storey dwelling (1340078)	50 Cessnock Road, Branxton	Lot 1, DP 533070	Local
BRANXTON	St John's Anglican Church (1340118)	Cessnock Road, Branxton	Part Lot 195, DP 755211	Local
BRANXTON	Roman Catholic Cemetery (1340119)	Station Street, Branxton	Lot 1, DP 1047580 and Part Lot 17, DP 755211	Local
BRANXTON	Convent of Mercy, St Brigid's (former, 1340122)	46 Station Street, Branxton	Lot 2, DP 805808	Local

BRANXTON	Royal Federal Hotel (1340176)	50 Maitland Street, Branxton	Lot 24, DP 628173	Local
BRANXTON	Bank of NSW (former; 1340177)	65 Maitland Street, Branxton	Lot 1, DP 500381	Local
BRANXTON	Branxton Post Office (1340187)	4 Drinan Street, Branxton	Lot 1 DP, 774297	Local
BRANXTON	Branxton Uniting Church (1340188)	5 Clift Street and 9 Drinan Street, Branxton	Lots 9 & 10, Sec 2, DP 7634	Local
BRANXTON	Commercial Hotel (1340189)	45 Maitland Street, Branxton	Lot 1, DP 81054	Local
BRANXTON	Bercini Memorial (1340481)	Branxton Park, John Rose Avenue, Branxton	Lot 7006, DP93472	Local
BRANXTON	The Branxton Inn (1340508)	31 Maitland Street, Branxton	Lot 1, DP 237685	Local
BRANXTON	Branxton Public School & School House (former; 1340509)	58a Cessnock Street, Branxton	Lot 2, DP 841468	Local
BRANXTON	St Brigid's Roman Catholic Presbytery (1340510)	44 Station Street, Branxton	Lot 1, DP 805808	Local
BRANXTON	Horse Trough (1340511)	John Rose Avenue, Branxton	Lot 1, DP 81636	Local
BRANXTON	Bandstand & War Memorial (1340512)	Branxton Park, John Rose Avenue	Lot 7006, DP 93472	Local
BRANXTON	Dura (1340666)	61 Maitland Street, Branxton	Lot 1, DP 5237685	Local
BRANXTON	Sandstone Kerbs, Gutter and Roads in Branxton (1340845; *)	John Rose Avenue, Branxton	within road reserve	Local
BRUNKERVILLE	Brunkerville Uniting Church Cemetery (1340513)	1407 Leggetts Drive, Brunkerville	Lot 300, DP 1008743	Local
BUCHANAN	Buchanan Gallery (1340487)	796 Buchanan Road, Buchanan	Lot 91, DP 755260	Local
BUTTAI	Buttai Cemetery/Elliott Family Graves (1340127)	659 John Renshaw Drive, Buttai	Lot 1, DP 555507	Local
CEDAR CREEK	Clark's Slab House (1340587)	1726 Wollombi Road, Cedar Creek	Lot 16, DP 755241	Local
CESSNOCK	Marthaville (1340027)	200 Wollombi Road, Cessnock	Lot A, DP 390312	Local

CESSNOCK	F Goldsmith & McCullough's Building (1340064)	100 - 110 Vincent Street, Cessnock	Lots A & B, DP 314038 and Lot 31, DP 588605	Local
CESSNOCK	Cessnock Courthouse & Police Station Group (1340083)	223 - 227 Maitland Road, Cessnock	Lots 2 & 4, Sec 6 DP 758241 and Pt 3, Sec 6, DP 758241	Local
CESSNOCK	McLeod's Building (former; 1340084)	121 Vincent Street, Cessnock	Lot 11, DP 1048080	Local
CESSNOCK	Cessnock General Cemetery (1340090)	Wine Country Drive, Cessnock	Lot 2, DP 784394, Lot 1, DP 784394 and DP 755252	Local
CESSNOCK	St John's Anglican Church (1340129)	3 Westcott Street, Cessnock	Lots 7 & 8, DP 6102	Local
CESSNOCK	Glenmore Private Hospital (former; 1340153)	41 McGrane Street, Cessnock	Lot A, DP 371398	Local
CESSNOCK	Cessnock High School (1340178)	49E & 49F Abedare Road, Cessnock	Lot 2, Sec 50, DP 758002 and Lot 570, DP 821031	Local
CESSNOCK	Cessnock Hotel (1340179)	234 Wollombi Road, Cessnock	Lot B, DP 369757	Local
CESSNOCK	Commercial Bank Building (1340180)	117 Vincent Street, Cessnock	Lot 3 Sec B, DP 4653	Local
CESSNOCK	Royal Oak Hotel (1340181)	221 Vincent Street, Cessnock	Lot 1, DP 4653	Local
CESSNOCK	Cessnock Fire Station (1340197)	4 Edward Street, Cessnock	Lot 94, DP 755215	Local
CESSNOCK	Methodist Church Wesley Hall (1340198)	4 Cooper Street, Cessnock	Lot 10 & Part Lot 11 Sec D, DP 4633	Local
CESSNOCK	School of Arts (1340201)	6 Vincent Street, Cessnock	Lot 60, DP 755215	Local
CESSNOCK	Hunter District Water Board (1340202)	16 Vincent Street, Cessnock	Lot 90, DP 1096425	Local
CESSNOCK	Wentworth Hotel (1340204)	36 Vincent Street, Cessnock	Lot 3 Sec A, DP 4080	Local
CESSNOCK	Soldier's Memorial Hall (1340205)	14 Vincent Street, Cessnock	Lot 169, DP 755215	Local
CESSNOCK	Aberdare Tavern (1340206)	196 Vincent Street, Cessnock	Lot 9 Sec C, DP 4080	Local
CESSNOCK	Australia Hotel (1340471)	136 Wollombi Road, Cessnock	Lot 1, DP 306863	Local

CESSNOCK	Black Opal Hotel (1340478)	220 Vincent Street, Cessnock	Lot 5, DP 758002	Local
CESSNOCK	O'Neill's Wine Bar (former; 1340505)	4 Wollombi Road, Cessnock	Lot 5, Sec 1, DP 758002	Local
CESSNOCK	Kearsley Chambers (1340516)	18 Vincent Street, Cessnock	Lot 51, DP 755215	Local
CESSNOCK	Cowman's Buildings (1340517)	84 - 90 Vincent Street, Cessnock	Lot 1, DP 727358 and Lots 1 & 2, DP 586696	Local
CESSNOCK	Two storey brick commercial building (1340518)	138 Vincent Street, Cessnock	Lot 1, DP 302823	Local
CESSNOCK	Smyth Turner & Wall Offices (1340519)	144 Vincent Street, Cessnock	Lot 1, DP 727366	Local
CESSNOCK	Woodhouse Motor Garage (1340520)	148 Vincent Street, Cessnock	Lot 1, DP 653935	Local
CESSNOCK	Commercial Buildings (1340521)	198 Vincent Street, Cessnock	Lot 2, DP 165744	Local
CESSNOCK	Cinema (former; 1340522)	206 Vincent Street, Cessnock	Lot 1, DP 956157	Local
CESSNOCK	Regent Theatre (former; 1340524)	173 Vincent Street, Cessnock	Lot 3, Sec C, DP 4653	Local
CESSNOCK	Commercial Building (1340525)	45 Vincent Street, Cessnock	Lot 1, DP 306771	Local
CESSNOCK	Cessnock Coperative Store (former; 1340526)	103 Vincent Street, Cessnock	Lot 6, DP 631060	Local
CESSNOCK	Masonic Hall (1340528)	8 Cumberland Street, Cessnock	Lot 1, Sec D, DP 4633	Local
CESSNOCK	Cessnock Swimming Pavilion (1340529)	1A Allandale Road, Cessnock	Lot 16, DP 48151	Local
CESSNOCK	Cessnock West Public School (1340530)	113 Wollombi Road, Cessnock	Lot 1 Sec A, DP 9252	Local
CESSNOCK	Cessnock Hospital (1340531)	View Street, Cessnock		Local
CESSNOCK	Aberdare Extended Colliery Company Houses (1340532)	226-234, 255 & 261 Vincent Street, Cessnock	Lots B - F, DP 302444, Lot 251, DP 606348, Lot 21, DP 845986	Local
CESSNOCK	United Services Hotel (former; 1340533)	163 - 167 Vincent Street, Cessnock	Lot 46, DP 1034268	Local

CESSNOCK	Northumberland Hotel (former; 1340534)	115 Vincent Street, Cessnock	Lot 1, DP 812229	Local
CESSNOCK	St Joseph's Catholic Church Group (1340667)	2-6 Cumberland Street, Cessnock	Lot 1, DP 304982, Lots 1 & 2, DP 570626, Lots 5 & 6, Sec 6, DP 758241	Local
CESSNOCK	Cessnock East Public School (1340711)	Maitland Road, Cessnock	Lot 211 & 460, DP755215	Local
CESSNOCK	Cessnock Anglican Rectory (1340792)	12 Dudley Street, Cessnock	Lot 6, Sec 7, DP 6102	Local
CESSNOCK	Obelisk to Greta Seam (1340862)	Charlton Street, Cessnock	Lot 2, DP 1013378	Local
EAST BRANXTON	Branxton General Cemetery (1340121)	Lindsay Street, East Branxton	Lots 1, 9 & 10, Sec 3, DP 758153, Lot 7005, DP 93471	Local
ELLALONG	Ellalong Cemetery (1340466)	Helena Street, Ellalong	Lot 1, DP 650540, Lot 7006, DP 93602	Local
ELLALONG	Ellalong Hotel (1340476)	80 Helena Street, Ellalong	Lot 5, Sec 4, DP 758382	Local
ELLALONG	Ellalong Public School & Memorial Gates (1340535)	Helena Street, Ellalong	Lots 4 & 5, DP Sec 9, DP 758382, Lot 258, DP 820562	Local
ELLALONG	St Thomas' Church (1340536)	23 Church Street, Ellalong	Lot 5, DP 758382	Local
GRETA	Greta Police Station, Lock up & Residence (former; 1340002)	1 Water Street, Greta	Lots 1 & 2, Sec 11, DP 758474	Local
GRETA	Sandstone Kerbs, Gutters, drains and dam in Greta (1340004; *)		located in High, Anvil, Wyndham, Belbey, Chapman, & Waters Streets and the New England Highway.	Local
GRETA	Greta Courthouse (former; 1340010)	98 High Street, Greta	Lot 12, Sec 11, DP 758474	Local
GRETA	Greta General Cemetery (1340054)	Hunter & Evans Sts, Greta	Lots 1 - 11, Sec 27, DP 758474	Local
GRETA	Greta Public School (1340067)	Wyndham Street, Greta	Lot 1, DP 1017034	Local
GRETA	Greta Uniting Church (1340073)	43 High Street, Greta	Lot 3, Sec 19, DP 758474	Local
GRETA	Greta Median Strip Group (1340074)		High Street/The new England Highway, between Water and Wyndham Streets	Local
GRETA	Greta Post Office (former; 1340133)	94 High Street, Greta	Lot 31, DP 805635	Local
GRETA	Tattersalls/Greta Hotel (1340472)	88 High Street, Greta	Lot 5, Sec 11, DP 758474	Local
GRETA	Inn (former; 1340541)	72 High Street, Greta	Lot 10, Sec 11, DP 758474	Local
GRETA	Horse Trough (1340543)	High Street, Greta		Local
GRETA	Greta Masonic Hall (former; 1340544)	67 High Street, Greta	Lot 1, DP 904277	Local
GRETA	Greta Council Chambers (former; 1340545)	96 High Street, Greta	Lot 11, Sec 11, DP 758474	Local

GRETA	Two-Storey Shop (1340547)	110 High Street, Greta	Lot B, DP 341702	Local
GRETA	St Mary's Anglican Church (1340548)	Anvil Street, Greta	Lot 2, Sec 7, DP 758474	Local
	Greta Migrant Camp Group (1340863; *)	Camp Road, Greta	Lot 2, DP 1036942, Lot 1, DP 416028 and Lot 21, DP 593748	Local
GRETA				
GRETA	Greta Railway Station and Station Master's House (1340214)	Off Nelson Street, Greta	Lot 2, DP 809649 and DP 755211	Local
		Camp Road, Greta	Lots 101, 102 & 104, DP1083950, Lots 7 & 8, DP868722, Lot 1, DP430997, Lot 41, DP 1079692, Lot 2, DP 874323, Lot 16, DP1078153, Lot 1, DP 874323, Lot 2, DP1092560 and Lot 2, DP 865109	Local
GRETA	Mount Molly Morgan (1340896)		Lot 2, DP 877093	Local
GRETA MAIN	Maitland Mine managers's house (former; 1340590)	988 Wollombi Road, Greta Main		Local
GRETA MAIN	Maitland Main Mine Company house (former; 1340591)	No 952 Wollombi Road, Greta Main	Lot 3, DP 775166	Local
HEDDON GRETA	Heddon Greta Hotel (1340477)	65 Main Road, Heddon Greta	Lot 10, Sec 2, DP 3816	Local
HEDDON GRETA	Heddon Greta Drive Inn Theatre (1340001)	10 & 12 Avery's Lane, Heddon Greta	Lots 17 & 18, DP 11823	Local
KEARSLEY	Kearsley Hotel (1340207)	120 Caledonia Street, Kearsley	Lot 9 & 10, Sec 19, DP 758555	Local
KEARSLEY	Company Houses (former; 1340460)	48 & 50 Poko bin Street, Kearsley	Lot 16 & 17, Sec 8, DP 758555	Local
KEARSLEY	Kearsley Public School and Shool House (former; 1340555)	10 Allandale Street & 128 Caledonia Street, Kearsley	Lot 1 & 2, DP 1063116,	Local
KEARSLEY	Co-operative Store Kearsley (former; 1340557)	21 Allandale Street, Kearsley	Lot 1, Sec 7, DP 758555	Local
KEARSLEY	Horse Trough (1340558)		within Caledonia Road reserve on south western side at intersection with Allandale Street	Local
KEARSLEY	Company Houses Elrington Colliery (former; 1340559)	2 - 17 Camellia Close, Kearsley	Lot 1 to 5, DP263182	Local
KITCHENER	Khartoum Hotel (1340473)	19 Cessnock Street, Kitchener	Lot 4, Sec 15, DP 758576	Local
KITCHENER	Kitchener Public School (1340560)	38 Richmond Street, Kitchener	Lot 1, Sec 17, DP 758756	Local

KITCHENER	Aberdare Central colliery Company Houses (former; 1340561)	33, 37, 41 to 47 Cessnock Street, Kitchener	Lot 537 to 539, DP 257370, Lot 390 & 391, DP755215	Local
KURRI KURRI	Chelmsford Hotel (1340137)	122 Lang Street, Kurri Kurri	Lot 6, Sec 20, DP 758590	Local
KURRI KURRI	Kurri Kurri Hotel (1340138)	180 Lang Street, Kurri Kurri	Lot 16, Sec 20, DP 758590	Local
KURRI KURRI	Station Hotel (1340140)	26 Coronation Street, Kurri Kurri	Lot 910, DP 630228	Local
KURRI KURRI	Empire Tavern (1340141)	45 Railway Street, Kurri Kurri	Lot 17, Sec 52, DP 758590	Local
KURRI KURRI	Trade Union Banners (1340186)	Sir Edgeworth David Museum, 11 Deakin Street, Kurri Kurri	Lot 812, DP 729860,	Local
KURRI KURRI	Kurri Kurri Fire Station (1340209)	119 Lang Street, Kurri Kurri	Lot 2, Sec 12, DP 758590	Local
KURRI KURRI	Baptist Church Kurri Kurri (1340461)	50 Edward Street, Kurri Kurri	Lot 8, Sec 49, DP 758590	Local
KURRI KURRI	Rotary Park Miners Memorial (1340483)	Lang Street, Kurri Kurri	Lot 190, DP 1108272	Local
KURRI KURRI	Kurri Kurri Public School (1340563)	Cnr Alexandra Street, Kurri Kurri	Sec 31, DP 758590	Local
KURRI KURRI	Masonic Hall (former; 1340564)	130 Barton Street, Kurri Kurri	Lot 1, DP 933324	Local
KURRI KURRI	Kurri Kurri Band Rotunda (1340565)	Lang Street, Kurri Kurri	Lot 190, DP 1108272	Local
KURRI KURRI	Kurri Kurri Co-op Store (former; 1340566)	245 Lang Street, Kurri Kurri	Lot 9 & 10, Sec 19, DP 758590	Local
KURRI KURRI	Barton Street Commercial Group (1340567)	132 to 198 Barton Street, Kurri Kurri	Lot A & B, DP 312438, Lot 3, 4, 6 & 9, Sec 30, DP 758590, Lot1 & 2, DP 308831, Lot A & B, DP 401071, Lot 1, DP 726866, Lot 1, DP 934973, Lot 1 & 2, DP 317384, Lot 1 & 2, DP 204786	Local
KURRI KURRI	Courthouse & Police Station Group (1340568)	121 Lang Street, Kurri Kurri	Lot 1, Sec 12, DP 758590	Local
KURRI KURRI	Kurri Kurri Hospital (1340569)	434 Lang Street, Kurri Kurri	Lot 1, DP 830895	Local

KURRI KURRI	Kurri Kurri Post Office (former; 1340570)	120 Lang Street, Kurri Kurri	Lot 1, DP 90354	Local
KURRI KURRI	Commonwealth Bank (former; 1340571)	197 Lang Street, Kurri Kurri	Lot 121, DP 71273	Local
KURRI KURRI	Bickmore's Store & Storage Shed (1340572)	84 Lang Street, Kurri Kurri	Lot A, DP 340739	Local
KURRI KURRI	Bickmore's House (1340573)	86 Lang Street, Kurri Kurri	Lot B, DP 340739	Local
KURRI KURRI	Builder's House (1340574)	42 Gillies Street, Kurri Kurri	Lot 11, DP 815028	Local
KURRI KURRI	Glenolive (1340578)	35 Edward Street, Kurri Kurri	Lot 16, Sec 43, DP 758590	Local
KURRI KURRI	Sandstone Kerbs, Gutters, Roads in Kurri Kurri (1340846; *)	Allworth Street, Kurri Kurri	within road reserve	Local
LAGUNA	Laguna Public School (1340036)	3738 Great North Road, Laguna	Lot 1, DP 840395	Local
LAGUNA	Laguna House Group (1340144)	3983 & 3966 Great North Road, Laguna	Lot 2 & 4, DP 700151	Local
LAGUNA	Laguna General Store & Trading Post (1340164)	3718 Great North Road, Laguna	Lot 10, DP 584943	Local
LAGUNA	House (1340579)	3759 Great North Road cnr Watagan, Laguna	Lot 1, DP 1037762	Local
LAGUNA	Wylie Cottage (1340580)	3746 Great North Road, Laguna	Lot 2, DP 840395	Local
LAGUNA	Bread Oven (1340581)	Yallambie', 112 Dairy Arm Road, Laguna	Lot 128, DP 755230	Local
LAGUNA	Double Grave at "Morningside" (1340582)	466 Blaxland Arm Road, Laguna	Lot 33, DP 755210	Local
LAGUNA	Stone Walls & Post Rail Fence (1340583)	61 Hulahans Road, Laguna	Lot 32, DP 755210	Local
LAGUNA	Byora (1340584)	94 Milsons Arm Road, Laguna	Lot 32, DP 1057353	Local
LAGUNA	Cagney's (1340585)	6 Upper Yango Creek Road, Laguna	Lot 30, DP 839000	Local
LAGUNA	St Mark's Anglican Church (1340586)	Great North Road, Laguna	Lot 95, DP 755210	Local

MILLFIELD	Crawfordville school (former; 1340021)	27 and 29 Bennett Street, Millfield	Lot 43 & 44, DP 13687	Local
MILLFIELD	Millfield General Cemetery (1340052)	Crump Street, Millfield	Lot 7005, DP 93000 & Lot 7001, DP 93001	Local
MILLFIELD	St Luke's Anglican Church (1340081)	42 Wollombi Road, Millfield	Lot 22, DP 794135	Local
MILLFIELD	Rising Sun Inn (former; 1340217)	95-97 Wollombi Road, Millfield	Lot 20, DP 13226, Lot 177, DP 876309	State
MILLFIELD	Millfield Public School & Memorial Gates (1340484)	105-129 Wollombi Road, Millfield	Lot 7, DP 1034925, Lot 2, DP 782776	Local
MILLFIELD	St Luke's Church Hall (1340592)	42 Wollombi Road, Millfield	Lot 21, DP 794135	Local
MOUNT VINCENT	Mu bring Anglican church and Cemetery (1340147)	18 Mount Vincent Road, Mount Vincent	Lot 118, DP 755244	Local
MOUNT VINCENT	Church Creek Bridge (1340594)	460m north east of the intersection with Leggetts DriveMount Vincent Road		Local
MULBRING	Bow Wow Creek Gorge (1340110)	Sandy Creek Road - 4 km south-west of Mulbring	multiple lots - the extent of the item is shown brown on the map held at council titled heritage map	State
MULBRING	Mu bring road Fill Quarry (1340115)	Cessnock Road, Mulbring		State
MULBRING	Mu bring Uniting Church & Cemetery (1340208)	Palmer Street, Mulbring	Lot 4, Sec 3, and Lot 1, DP 668244	Local
MULBRING	Temperance Hotel (former; 1340595)	31 Maitland Road, Mulbring	Lot 2, Sec 1, DP 758722	Local
MULBRING	Mu bring House (1340596)	28 Maitland Street, Mulbring	Lot 100, DP 532976	Local
NEATH	Neath Hotel (1340150)	Cessnock Road cnr Northumberland Street, Neath	Lot 15 & Lot 16, Sec 1, DP 758760	Local
NEATH	Neath Colliery Manager's House (former; 1340731)	147 Cessnock Road, Neath	Lot 393, DP 755215	Local
NEATH	Sandstone kerb and Guttering (1340773; *)	In front of No. 165 Cessnock Road 140m west of David Street		Local
NORTH ROTHBURY	Sandstone Quarry Littlewood Road (1340079)	Littlewood Road, North Rothbury	Lot 8, DP 755211	Local

NORTH ROTHBURY	Rothbury Riot memorial (1340482)	Wine Country Drive, North Rothbury	Lot 7, DP 813163	Local
NULKABA	Nulkaba Public School (1340012)	5 O'Connors Road, Nulkaba	Lot 295, DP 729086	Local
NULKABA	Potters Brewery (1340043; *)	9 Fleming Street, Nu kaba	Lot 1, DP 873424	Local
NULKABA	St Patrick's Roman catholic Church Group (1340049)	67 Wine Country Drive, Nulkaba	Lot 1, DP 662149	Local
NULKABA	The Ranch (former;1340221; *)	Lomas Lane, Nu kaba	Lot 159, DP 755204	Local
PAXTON	Paxton Hotel (1340474)	22 Millfield Road, Paxton	Lot 16, DP 11825	Local
PAXTON	Masonic Hall (1340604)	7 Fances Street, Paxton	Lot 79, DP 12136	Local
PAXTON	Paxton Public School (1340605)	20 Anderson Ave, Paxton	Lot 1, DP 175536	Local
PAYNES CROSSING	Two storey stone house (1340047)	80 Stockyard Creek Road, Paynes Crossing	Lot 13, DP 755272	Local
PAYNES CROSSING	Robert's Shed (1340606)	2032 Paynes Crossing Road, Paynes Crossing	Lot 62, DP 755272	Local
PELAW MAIN	Pelaw Main Public School and Memorial Gates (1340607)	10 Abermain Street, Pelaw Main	Lot 75, DP 755259	Local
POKOLBIN	Ashman's Winery & Vineyard (1340044)	1838 Broke Road, Pokolbin	Lot 11, DP 701012	Local
POKOLBIN	Glen Elgin Winery, Vineyard & Homestead (1340050; *)	576 DeBeyers Road, Poko bin	Lot 95, DP 755252	Local
POKOLBIN	Ironbark Cottage at Peppertree Vineyard (1340089; *)	64 Halls Road, Pokolbin	Lot 10, DP 270071	Local
POKOLBIN	Happy valley Winery & Vineyard (site of former; 1340169; *)	310 Oakey Creek Road, Pokolbin	Lot 34, DP 755252	Local
POKOLBIN	Oakdale Winery & Vineyard (1340608)	1596 Broke Road, Pokolbin	Lot 22, DP 700366	Local
POKOLBIN	Lindeman's Ben Ean Cellars, Winery & Distillery (disused; 1340609)	119 McDonalds Road, Pokolbin	Lot B, DP 947427	Local
POKOLBIN	Pokolbin Church (former; 1340610)	97 McDonalds Road, Pokolbin	Lot 1, DP 921538	Local
POKOLBIN	Oakdale Winery & Vineyard (1340611; *)	750 DeBeyers Road, Poko bin	Lot 1 & 3, DP 790025	Local

POKOLBIN	Bellevue Vineyard & Winery (1340612)	555 Oakey Creek Road, Pokolbin	Lot 159 & 161, DP 755252	Local
POKOLBIN	Slab Cottage (1340613; *)	81 Campbells Lane, Poko bin	Lot 57, DP 755252	Local
POKOLBIN	Cote d'Or Vineyard & Winery (1340614)	DeBeyers Road, Pokolbin	Lot 1, DP 981943	Local
POKOLBIN	Pokolbin Community Centre & Memorial Gates (1340615)	126 McDonalds Road, Pokolbin	Lot 1, DP 703138	Local
QUORROBOLONG	Barraba Homestead (former) & outbuildings (1340223; *)	184 Barraba Lane, Quorrobolong	Lot 1, DP 986143	Local
RICHMOND VALE	Kurri Fabrications (1340469)	259 Leggets Drive, Richmond Vale	Lot 2, DP 533820	Local
ROTHBURY	Wilderness Cemetery (1340156)	Wilderness Road, Rothbury	DP 70352	Local
ROTHBURY	Blick Bros Graves at Be bourie Winery (1340616)	521 Talga Road, Rothbury	Lot 22, DP 1058097	Local
ROTHBURY	Old North Road Remnant (1340723; *)	Talga Road	Lots 1 & 2, DP 1012194	Local
ROTHBURY	Wills Hill early Agricultural Landscape (1340850)	Wills Hill Road, Rothbury	Lots 1 - 5, DP 1048155	Local
SWEETMANS CREEK	Thomas Budd's Grave (1340588)	2013 Wollombi Road, Sweetmans Creek	Lot, 90 DP 609658	Local
WESTON	Kurri Kurri Cemetery (1340464)	Hospital Road, Weston	DP 755231	Local
WESTON	Criterion Hotel (1340475)	75 Cessnock Road, Weston	Lot 1, DP 75463	Local
WESTON	Aberdare Hotel (1340479)	29 Cessnock Road, Weston	Lot 1, DP 76488	Local
WESTON	The Department Store (1340619)	96 Cessnock Road, Weston	Lot 13 & 14, Sec C, DP 5367	Local
WESTON	Liquor Store (1340620)	50-52 Cessnock Road, Weston	Lot B, Sec B, DP 378736 & Lot 4, DP 5366	Local
WESTON	Olympia Picture Theatre (1340622)	28 Station Street, Weston	Lot 1, DP 818939	Local
WESTON	Masonic Hall (1340623)	47 Second Street, Weston	Lot 14, Sec 9, DP 979187	Local

WESTON	Colliery Superintendents House & Garden (1340624)	83 Hospital Road, Weston	Lot 21, DP 588129	Local
WESTON	Weston Bird World (1340625)	53 Station Street, Weston	Lot 1, DP 741704	Local
WESTON	Weston Public School (1340626)	Sixth Street, Weston	Lots 1 - 22, Sec 18, DP 979187	Local
WESTON	Fourth Street Bridge (1340627; *)	Between East and West Esplanade	Over Swamp Creek	Local
WESTON	Kline Street Bridge (1340628; *)	Between East and West Esplanade	Over Swamp Creek	Local
WESTON	Post Office & Post Masters House (1340629)	50 First Street and 40 Station Street, Weston	Lot 1 & 2, DP 806634	Local
WESTON	Carousel Keepsakes (1340630)	2 Government Street, Weston	Lot 1, DP 155029	Local
WESTON	Sandstone kerbs,gutter, roads in Weston (1340847; *)	Station Street and First Street	in road reserve	Local
WOLLOMBI	St Michael the Archangel Romam Catholic Church (1340003)	2887 Wollombi Road, Wollombi	Lot 4, Sec 1, DP 759103	Local
WOLLOMBI	Wollombi Public School Group (1340030)	2847-2853 Wollombi Road, Wollombi	Lot 178, DP 723300 & Lots 1 - 4, Sec 8, DP 759103	Local
WOLLOMBI	Wollombi Courthouse (former), Police Station & Residence (1340038)	2894 & 2888 Wollombi Road, Wollombi	Lot 181, DP 1017821 & Lot 7, Sec 6, DP 759103	Local
WOLLOMBI	Mulla Villa (1340051)	3174 Great North Road, Wollombi	Lot 1 DP 1012276	Local
WOLLOMBI	Wollombi Saleyards (1340088; *)	2976 and 2978 Paynes Crossing Road, Wollombi	Lot 2 & 3, Sec 3, DP 759103	Local
WOLLOMBI	Wollombi Cottage (1340091)	2883 Wollombi Road, Wollombi	Lot 6, Sec 1, DP 759103	Local
WOLLOMBI	St John the Evangelist Anglican Church (1340099)	2985 Paynes Crossing Road, Wollombi	Lot 5, Sec 6, DP 759103	Local
WOLLOMBI	Wollombi Post Office (former; 1340103)	2885 Wollombi Road, Wollombi	Lot 5, Sec 1, DP 759103	Local
WOLLOMBI	Finchley Aboriginal Area (1340109; *)	13km west - south - west of Wollombi		Local
WOLLOMBI	Wollombi Cemetery (1340160)	Wollombi Road, Wollombi	Sec 12, DP 759103	Local
WOLLOMBI	The Glen (1340633)	Main Road 181, 4 km north of Wollombi	Lot 65, DP 755217	Local

WOLLOMBI	Wollombi Rectory (former; 1340634)	Aleppo Street, Wollombi	Lot 1, Sec 40, DP 759103	Local
WOLLOMBI	Wollombi Store & Residence (1340635)	2886 Wollombi Road, Wollombi	Lot 11, DP 841018	Local
WOLLOMBI	Barn Antique Shop (former; 1340636)	2882 Wollombi Road, Wollombi	Lot 3, Sec 6, DP 759103	Local
WOLLOMBI	Blair Cottage (1340637)	Great North Road, Wollombi	Lot 41, DP 1105788	Local
WOLLOMBI	Elizabeth House (former Kenny's Folly; 1340638)	2884 Wollombi Road, Wollombi	Lot 2, Sec 6, DP 759103	Local
WOLLOMBI	Wollombi House (1340639)	11 Canning Street, Wollombi	Lot 1, DP 1012409 & Lot 11, Sec 15, DP 759103	Local
WOLLOMBI	Cottage (1340645)	Great North Road, Wollombi	Lot 2, Sec 31, DP 759103	Local
WOLLOMBI	The Grange (1340646)	2754 Paynes Crossing Road, Wollombi	Lot 1, DP 745676	Local
WOLLOMBI	Undercliff (1340648)	152 Yango Creek Road, Wollombi	Lot 78, DP 755272	Local
WOLLOMBI	Stoney Point (1340649)	135 Narone Creek Road, Wollombi	Lot 73, DP 755219	Local
WOLLOMBI	Cottage (1340650)	2889 Wollombi Road, Wollombi	Lot 3, Sec 1, DP 759103	Local
Areas, Complex and Group listings	South Maitland Railway System(Cessnock LGA part; 1340065; *)		multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	State
Areas, Complex and Group listings	Greta Bridges Group (1340112; *)		Anvil, Hunter, Leconfield, Nelson, & Wyndham Streets & Wilderness Road	Local
Areas, Complex and Group listings	Richmond Vale Railway (Cessnock LGA part; 1340135; *)		multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	State
Areas, Complex and Group listings	Collieries of the South Maitland Coalfields/Greta Coal Measures Group (1340721; *)		multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	Local
Areas, Complex and Group listings	Nissen Huts: Macquarie Ave and its Environs (1340174)		multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	Local

Areas, Complex and Group listings	Great Northern Railway Network (1340868; *)	multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	State
Areas, Complex and Group listings	Great North Road: Cessnock LGA section (1340170; *)	multiple lots and locations: The extent of the item is shown brown on the map held at council titled heritage map	State

PART 2 HERITAGE CONSERVATION AREAS			
ITEM No.	NAME	PROPERTY DESCRIPTION	LEVEL of SIGNIFICANCE
Heritage Conservation Areas	Wollombi Village & Valley HCA (1340735)	the area outlined with a bold red line and the lettering "Wollombi Village and Valley HCSA" and right diagonally hatching on the map held at council titled heritage map	State
Heritage Conservation Areas	The Valley Landscape of the Great North Road: Section 4, from Mount Manning to Wollombi (1340899)	the area outlined with a bold red line and the lettering "GNR (Section 4) Valley HCA" and left diagonally hatching on the map held at council titled heritage map	State
Heritage Conservation Areas	The Valley Landscape of the Great North Road: Section 5, Sawyers Gully (1340898)	the area outlined with a bold red line and the lettering "GNR (Section 5) Sawyers Gully HCA" and left diagonally hatching on the map held at council titled heritage map	Local
Heritage Conservation Areas	The Valley Landscape of the Great North Road:Section 6, from Wollombi to Broke (1340897)	the area outlined with a bold red line and the lettering "GNR (Section 5) Valley HCA" and left diagonally hatching on the map held at council titled heritage map	Local

## Dictionary

(Clause 1.4)

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

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

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

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

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

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

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

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

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

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

**agriculture** means any of the following:

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

**aquaculture** means:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond),  
but does not include:
- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially), or
- (d) anything done for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose, or
- (e) any other thing prescribed by the regulations (made under the *Fisheries Management Act 1994*).

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

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

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

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

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

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

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

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

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

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

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

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

**biodiversity** means biological diversity.

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

**boarding house** means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and
- (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (d) that has rooms that accommodate one or more lodgers,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**bush fire hazard reduction work** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire, but does not include construction of a track, trail or road.

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

**business identification sign** means a sign:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre, but does not include:
  - (c) a building or place used for home-based child care home, or
  - (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
  - (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
  - (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
  - (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
  - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

- (a) cutting down, felling, thinning, logging or removing native vegetation,
  - (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.
- (See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities).

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

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

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

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

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

**coastal zone** means:

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

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

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

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

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

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

**correctional centre** means:

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

**Council** means the Council of the City of Cessnock.

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

**Crown reserve** means:

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

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

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

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

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

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

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

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

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

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

**earthworks** means excavation or filling.

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

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

**estuary** means:

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

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

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

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

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

**extensive agriculture** means:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops), or
  - (b) the grazing of livestock, or
  - (c) bee keeping,
- for commercial purposes, but does not include any of the following
- (d) animal boarding or training establishments,
  - (e) aquaculture,
  - (f) farm forestry,
  - (g) intensive livestock agriculture,
  - (h) intensive plant agriculture.

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

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

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

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

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

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

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

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

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

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

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

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

**Definition of “fish”**

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

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

**Note.** SEPP (Infrastructure).

**floor space ratio**—see clause 4.4.

**Floor Space Ratio Map** means the Cessnock Local Environmental Plan 2008 Floor Space Ratio Map.

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

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

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

**forestry operations** means:

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement, or an attic and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
  - (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
  - (b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,
- but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

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

- (a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and
  - (b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,
- but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

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

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

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

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

**Height of Buildings Map** means the Cessnock Local Environmental Plan 2008 Height of Buildings Map.

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

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

**Heritage Map** means the Cessnock Local Environmental Plan 2008 Heritage Map.

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

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

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

**Note.** SEPP (Infrastructure).

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

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

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

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

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

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

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

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

but does not include bed and breakfast accommodation or sex services premises.

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

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

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

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

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

**Note.** See SEPP Seniors living.

**hotel or motel accommodation** means tourist and visitor accommodation (whether or not licensed premises under the *Liquor Act 1982*):

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

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

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

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

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

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

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

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

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

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

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

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

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

**Land Application Map** means the Cessnock Local Environmental Plan 2008 Land Application Map.

**Land Reservation Acquisition Map** means the Cessnock Local Environmental Plan 2008 Land Reservation Acquisition Map.

**Land Zoning Map** means the Cessnock Local Environmental Plan 2008 Land Zoning

Map.

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

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

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

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

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

**Lot Size Map** means the Cessnock Local Environmental Plan 2008 Lot Size Map.

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

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

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

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

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

**moveable dwelling** means:

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

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

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

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

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

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

**Meaning of "native vegetation"**

(1)

**Native vegetation** means any of the following types of indigenous vegetation:

- (a) trees (including any sapling or shrub, or any scrub),
- (b) understorey plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland.

(2)

Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.

(3)

**Native vegetation** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**place of public entertainment** means:

- (a) any theatre or cinema (including a drive-in or open-air theatre or cinema) that is used or intended to be used for the purpose of providing public entertainment, or
- (b) any premises the subject of a licence under the *Liquor Act 1982* or a certificate of registration under the *Registered Clubs Act 1976*, that are used or intended to be used for the purpose of providing entertainment, including public entertainment, but not including amusement provided by means of an approved gaming machine within the meaning of the *Gaming Machines Act 2001*, or
- (c) any public hall that is used or intended to be used for the purpose of providing public entertainment.

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

**pub** means licensed premises under the *Liquor Act 1982* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold on the premises.

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

**Note.** SEPP (Infrastructure) ) prescribed zones only.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

- (a) meals and cleaning services, and
  - (b) personal care or nursing care, or both, and
  - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,
- not being a dwelling, hospital or psychiatric facility.

**Note:** See SEPP Seniors Living

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

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

**Note.** SEPP (Infrastructure).

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

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

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

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

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

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

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

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

- (a) a residential care facility, or
  - (b) a hostel, or
  - (c) a group of self-contained dwellings, or
  - (d) a combination of these,
- and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
  - (f) people who live in the same household with seniors or people who have a disability, or
  - (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

**Note:** See SEPP Seniors Living.

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

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

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

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

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and

- (e) sewage overflow structures, and
- (f) vent stacks.

**Note.** SEPP (Infrastructure).

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

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

but does not include traffic signs or traffic control facilities.

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

**Note.** The effect of this definition is varied by clause 5.4 for the purpose of the determination of permitted floor space area for proposed development.

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

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

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

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

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

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

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

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

- (c) an attic.

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

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

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

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

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

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

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

**telecommunications facility** means:

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

**Note.** SEPP (Infrastructure).

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

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

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

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

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

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

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

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

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

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

**vehicle body repair workshop** means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

**vehicle repair station** means a building or place used for the purpose of carrying out repairs or the selling of, and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop.

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

**veterinary hospital** means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

**viticulture** means the cultivation of grapes for commercial purposes for use in the production of fresh or dried fruit or wine.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**waste disposal facility** means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

**Note.** SEPP (Infrastructure) prescribed zones only.

**waste management facility** means a facility used for the storage, treatment, purifying or disposal of waste, whether or not it is also used for the sorting, processing, recycling, recovering, use or reuse of material from that waste, and whether or not any such operations are carried out on a commercial basis. It may include but is not limited to:

- (a) an extractive industry ancillary to, required for or associated with the preparation or remediation of the site for such storage, treatment, purifying or disposal, and
- (b) eco-generating works ancillary to or associated with such storage, treatment, purifying or disposal.

**waste or resource management facility** means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

**Note.** SEPP (Infrastructure) prescribed zones only.

**waste or resource transfer station** means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

**Note.** SEPP (Infrastructure) prescribed zones only.

**water recycling facility** means a building or place used for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including, in particular, sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

**Note.** SEPP (Infrastructure) prescribed zones only.

**water reticulation system** means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**Note.** SEPP (Infrastructure).

**water recreation structure** means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

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

**water supply system** means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

**Note.** SEPP (Infrastructure) prescribed zones only.

**water treatment facility** means a building or place used for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility.

**Note.** SEPP (Infrastructure) prescribed zones only.

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

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

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

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

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

**wetland** means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

**wholesale supplies** means a building or place used for the display, sale or hire of goods or materials by wholesale only to businesses that have an Australian Business Number registered under the *A New Tax System (Australian Business Number) Act 1999* of the Commonwealth.

## **Group Terms**

### **Agriculture:**

*animal boarding or training establishments; aquaculture; dairies (pasture based); extensive agriculture; farm forestry; feedlots; horticulture; intensive livestock agriculture; intensive plant agriculture; natural water-based aquaculture; pond-based aquaculture; restricted dairies; tank-based aquaculture; turf farming and viticulture.*

### **Business Premises:**

*business premises; funeral chapels; funeral homes; health consulting rooms; and medical centres.*

### **Industry:**

*agricultural produce industries; hazardous industries; heavy industries; industries; light industries; livestock processing industries; offensive industries; rural industries; sawmill or log processing works; and stock and sale yards.*

### **Residential Accommodation:**

*boarding houses; dual occupancies; dwelling houses; group homes; hostels; multi dwelling housing; residential accommodation; residential care facilities; residential flat buildings; seniors housing; and shop top housing.*

### **Retail Premises:**

*bulky goods premises; cellar door premises; food and drink premises; kiosks; landscape and garden supplies; markets; neighbourhood shops; pubs; restaurants; restricted premises; retail premises; roadside stalls; shops; take away food and drink premises; timber and building supplies; and vehicle sales or hire premises.*

### **Tourist and Visitor Accommodation:**

*backpacker's accommodation; bed and breakfast accommodation; caravan parks; farm stay accommodation, hotel or motel accommodation; serviced apartments; and tourist and visitor accommodation.*