



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

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LEGISLATION

Proclamations



New South Wales

Commencement Proclamation

under the

Police Amendment Act 2007 No 68

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Police Amendment Act 2007*, do, by this my Proclamation, appoint 4 February 2008 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 30th day of January 2008.

By Her Excellency's Command,

DAVID CAMPBELL, M.P.,
Minister for Police

L.S.

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Police Amendment Act 2007*, including provisions relating to employment matters and complaints made against police.

Regulations



New South Wales

Environmental Planning and Assessment Amendment (Section 94A Levies) Regulation 2008

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to provide that, for development within the area to which *Newcastle City Centre Local Environmental Plan 2008* applies that has a proposed cost of more than \$250,000, the maximum section 94A levy that may be imposed is 3 per cent of the proposed cost of that development.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general regulation-making power) and section 94A.

Clause 1 Environmental Planning and Assessment Amendment (Section 94A Levies)
 Regulation 2008

Environmental Planning and Assessment Amendment (Section 94A Levies) Regulation 2008

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Section 94A Levies) Regulation 2008*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Environmental Planning and Assessment Amendment (Section 94A Levies)
Regulation 2008

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 25K Section 94A levy—maximum percentage

Insert at the end of the Table to clause 25K:

Land identified on the Land Application Map under Newcastle City Centre Local Environmental Plan 2008

Up to and including \$100,000	Nil
More than \$100,000, up to and including \$200,000	0.5 per cent
More than \$200,000, up to and including \$250,000	1 per cent
More than \$250,000	3 per cent

OFFICIAL NOTICES

Appointments

ART GALLERY OF NEW SOUTH WALES ACT 1980

Art Gallery of New South Wales Trust
Appointment of Trustees

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to section 6 of the Art Gallery of New South Wales Act 1980, the following persons being appointed as trustees of the Art Gallery of New South Wales Trust from 1 January 2008 to 31 December 2010:

- (i) Anne FULWOOD (re-appointment)
- (ii) Sandra McPHEE (re-appointment)

FRANK SARTOR, M.P.,
Minister for Planning,
Minister for Redfern Waterloo
and Minister for the Arts

AUSTRALIAN MUSEUM TRUST ACT 1975

Australian Museum Trust
Appointment of Trustees

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to Section 6 of the Australian Museum Trust Act 1975, the following person being appointed as trustee of the Australian Museum Trust from 1 January 2008 to 31 December 2010:

- (i) Michael ALSCHER (new appointment)

FRANK SARTOR, M.P.,
Minister for Planning,
Minister for Redfern Waterloo
and Minister for the Arts

MUSEUM OF APPLIED ARTS AND SCIENCES ACT 1945

The Trustees of the Museum of Applied Arts and Sciences
Appointment of Trustees

HER Excellency the Governor, with the advice of the Executive Council, has approved, pursuant to Section 4 of the Museum of Applied Arts and Sciences Act 1945, the following persons being appointed as trustees of the The Trustees of the Museum of Applied Arts and Sciences from 1 January 2008 to 31 December 2010:

- (i) Dr Nicholas PAPPAS, pursuant to Section 8 (1) (re-appointment)
- (ii) Anthony SUKARI (re-appointment)
- (iii) Judith WHEELDON, pursuant to Section 4 (2) (b) (re-appointment)

FRANK SARTOR, M.P.,
Minister for Planning,
Minister for Redfern Waterloo
and Minister for the Arts

Department of Lands

DUBBO OFFICE

142 Brisbane Street (PO Box 865), Dubbo NSW 2830

Phone: (02) 6883 3300 Fax: (02) 6882 6920

NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Roads Act 1993, the roads hereunder specified are closed and the lands comprised therein are freed and discharged from any rights of the public or any other person to the same as highways.

TONY KELLY, M.L.C.,
Minister for Lands

Description

Local Government Area and Land District – Coonamble

Lots 1 and 2, DP 1117792, Parishes of Gandymungydel, Embie and Neinby, Counties of Gregory and Leichhardt (not being land under the Real Property Act).
File No.: DB05 H 111.

Note: On closing, the titles for Lots 1 and 2 shall vest in the State of New South Wales as Crown Land.

APPOINTMENT OF CORPORATION TO MANAGE RESERVE TRUST

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Castlereagh-Macquarie County Council	Coolah Storage (R97121) Reserve Trust	Reserve No. 97121 Public Purpose: Storage Notified: 30 December 1983 File Reference: DB82 R 55

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Mid-Western Regional Council	Munna Resting Place (R67309) Reserve Trust	Reserve No. 67309 Public Purpose: Resting Place Notified: 21 January 1938 File Reference: DB88 H 490

ESTABLISHMENT OF RESERVE TRUST

PURSUANT to section 92 (1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder is established under the name stated in that Column and is appointed as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Coolah Storage (R97121) Reserve Trust	Reserve No. 97121 Public Purpose: Storage Notified: 30 December 1983 File Reference: DB82 R 55

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Munna Resting Place (R67309) Reserve Trust	Reserve No. 67309 Public Purpose: Resting Place Notified: 21 January 1938 File Reference: DB88 H 490

ALTERATION OF CORPORATE NAME OF RESERVE TRUST

PURSUANT to section 92 (3) of the Crown Lands Act 1989, the corporate name of the reserve trust specified in Schedule 1 hereunder, which is trustee of the reserve referred to in Schedule 2, is altered to the corporate name specified in Schedule 3.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE 1

Collarenebri Showground (R46754) Reserve Trust

SCHEDULE 2

Reserve No. 46754
Public Purpose: Showground
Notified: 5 July 1911
File Reference: DB81 R 169

SCHEDULE 3

Collarenebri Sporting Oval (R46754) Reserve Trust

GOULBURN OFFICE
159 Auburn Street (PO Box 748), Goulburn NSW 2580
Phone: (02) 4828 6725 Fax: (02) 4828 6730

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished. Upon closing, title to the land, comprising the former public road, vests in the body specified in the Schedules hereunder.

TONY KELLY, M.L.C.,
 Minister for Lands

 Descriptions

SCHEDULE 1

Parish – Sutton Forest; County – Camden;
Land District – Moss Vale; L.G.A. – Wingecarribee

Lot 1, DP 1118009 (not being land under the Real Property Act). File No.: GB03 H 170:JK.

Note: On closing, the title for the land in Lot 1, DP 1118009 remains vested in the State of New South Wales as Crown Land.

SCHEDULE 2

Parish – Durran Durra; County – St Vincent;
Land District – Palerang; L.G.A. – Braidwood

Lots 6 and 7, DP 1116780 (not being land under the Real Property Act). File No.: GB05 H 185:JK.

Note: On closing, the title for the land in Lots 6 and 7, DP 1116780 remains vested in the State of New South Wales as Crown Land.

SCHEDULE 3

Parish – Mowamba; County – Wallace;
Land District – Cooma; L.G.A. – Snowy River

Lot 1, DP 1120573 (not being land under the Real Property Act). File No.: GB00 H 346:JK.

Note: On closing, the title for the land in Lot 1, DP 1120573 remains vested in the State of New South Wales as Crown Land.

SCHEDULE 4

Parish – Grabben Gullen; County – King;
Land District – Crookwell; L.G.A. – Upper Lachlan

Lot 1, DP 1120676 (not being land under the Real Property Act). File No.: GB05 H 576:JK.

Note: On closing, the title for the land in Lot 1, DP 1120676 remains vested in the State of New South Wales as Crown Land.

GRAFTON OFFICE**76 Victoria Street (Locked Bag 10), Grafton NSW 2460****Phone: (02) 6640 3400 Fax: (02) 6642 5375****PLAN OF MANAGEMENT FOR A CROWN RESERVE UNDER DIVISION 6 OF PART 5 OF THE CROWN LANDS ACT 1989 AND CROWN LANDS REGULATION 2006**

A draft revised plan of management has been prepared for the Crown reserve described hereunder, which is under the trusteeship of the Diggers Headland Reserve Trust.

The draft plan may be inspected during normal business hours at:

Department of Lands
76 Victoria Street, Grafton NSW;
Clarence Valley Council Chambers
2 Prince Street, Grafton NSW;
Clarence Valley Council Chambers
50 River Street, Maclean NSW;
Wooli Post Office
89 Carraboi Street, Wooli NSW;

The draft plan may also be viewed on the Department of Lands website: www.lands.nsw.gov.au.

Representations in relation to the draft plan are invited from the public. These may be made in writing for a period of 42 days commencing 1 February 2008 and should be sent to the Manager, Land Management, Department of Lands, PO Box 272, Grafton NSW 2460.

TONY KELLY, M.L.C.,
Minister for Lands

Description of Reserve

*Land District – Grafton;
Local Government Area – Clarence Valley;
Parish – Scope; County – Clarence*

Reserve 44430, notified in the *New South Wales Government Gazette* of 16 October 1909, comprising Lot 20, DP 45976.

Location: Diggers Headland Reserve, Diggers Camp.

Public Purpose: Public recreation.

File No.: GF95 R 4.

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,
Minister for Lands

Description

Land District – Grafton; L.G.A. – Byron Shire

Roads Closed: Lot 26, DP 1121773 at Federal, Parish Jasper, County Rous. File No.: GF03 H 273.

Schedule

On closing, the land within Lot 26, DP 1121773 becomes vested in Byron Shire Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: ENG655000 x 37790G/#639278.

GRIFFITH OFFICE
2nd Floor, Griffith City Plaza,
120–130 Banna Avenue (PO Box 1030), Griffith NSW 2680
Phone: (02) 6960 3600 Fax: (02) 6962 5670

RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown Land specified in Column 1 of the Schedule hereunder, is reserved as specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Mirrool.	Reserve No.: 1014408.
Local Government Area: Griffith City Council.	Public Purpose: Rural services.
Locality: Bilbul.	
Lot 307, DP No. 751728, Parish Stanbridge, County Cooper.	
Area: About 5261 square metres.	
File No.: 07/5657/1.	

APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE

PURSUANT to section 92 (1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, is appointed as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Griffith City Council Crown Reserves Reserve Trust.	Reserve No.: 1014408. Public Purpose: Rural services. Notified: This day. File No.: 07/5657/1.

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
William Daniel Adams (re-appointment) Graeme John Mathieson (re-appointment) Leone Robyn Vrieling (re-appointment) Kenneth Martin Murphy (re-appointment) For a term commencing the date of this notice and expiring 31 January 2013.	Narrandera Racecourse Trust	Dedication No. 559011 Public Purpose: Racecourse Notified: 2 February 1889 File Reference: GH89R22/2

HAY OFFICE**126 Lachlan Street (PO Box 182), Hay NSW 2711****Phone: (02) 6993 1306 Fax: (02) 6993 1135****NOTIFICATION OF CLOSING OF PUBLIC ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closure, title to the land comprising the former public road vests in the body specified in the Schedules hereunder.

TONY KELLY, M.L.C.,
Minister for Lands

Descriptions

SCHEDULE 1

Land District – Hillston; L.G.A. – Carrathool

Lots 1 and 2, DP 1115421, Parishes of South Marowie and Huntawong, County of Nicholson. File No.: HY90 H 214.

Note: On closing, title for the land comprised in Lots 1 and 2 will remain vested in the State of New South Wales as Crown Land.

SCHEDULE 2

Land District – Deniliquin; L.G.A. – Murray

Lots 1 and 2, DP 1116842, Parish of Gotha and Gothog, County of Cadell. File No.: HY96 H 05.

Note: On closing, title for the land comprised in Lots 1 and 2 will remain vested in the State of New South Wales as Crown Land.

MAITLAND OFFICE**Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323****Phone: (02) 4937 9300 Fax: (02) 4934 2252****ERRATUM**

THE Notice "Appointment of Trust Board Members" published in the Government Gazette of the 25 January 2008, Folio 176 in relation to Tuggerah Lake (R1003002) Reserve Trust contained an error by referring to the trust members "Marlene Therese Pennings" and "Dellas Beryl Johnston" as being "new member" should have read "re-appointment" and the Term of Office "For a term commencing 8 February 2008 and expiring 7 February 2013" should have read "For a term commencing 25 January 2008 and expiring 24 January 2013". File No. MD01 R 8/5

TONY KELLY, M.L.C.,
Minister for Lands

**APPOINTMENT OF ADMINISTRATOR TO
MANAGE A RESERVE TRUST**

PURSUANT to section 117, Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified in Column 1, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Brett PHILLIPS	Lake Glenbawn State Park Trust	Dedication No. 1001337 Public Purpose: Public Recreation Notified: 1 June 1997 File Ref.: MD92 R 10/3

For a term commencing
1 February 2008 and
expiring 2 May 2008.

MOREE OFFICE
Frome Street (PO Box 388), Moree NSW 2400
Phone: (02) 6752 5055 Fax: (02) 6752 1707

**REVOCATION OF RESERVATION OF CROWN
 LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown Land specified in Column 1 of the Schedule hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>
Land District: Bingara.	The whole being Lots 30
Local Government Area: Gwydir Shire.	and 31, DP 754835, Parish Eulowrie, County Murchison,
Reserve No.: 93749.	of 54.33 hectares.
Purpose: Future public requirements.	
Notified: 10 October 1980.	
File No.: ME07 H 148.	

ORANGE OFFICE
92 Kite Street (PO Box 2146), Orange NSW 2800
Phone: (02) 6391 4300 Fax: (02) 6362 3896

**APPOINTMENT OF CORPORATION TO MANAGE
 RESERVE TRUST**

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
 Minister for Lands

SCHEDULE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Lands Administration Ministerial Corporation	Barigan Regional Crown Reserve Trust	Reserve No. 1011188 Public Purpose: Public Recreation, Environmental Protection, Rural Services, Heritage Services. Notified: 16 December 2005 File Reference: OE05 R 6

SYDNEY METROPOLITAN OFFICE
Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150
(PO Box 3935, Parramatta NSW 2124)
Phone: (02) 8836 5300 Fax: (02) 8836 5365

ERRATUM

IN the notification appearing in the Government Gazette of 14 September 2007, Folio 7075, under the heading "NOTIFICATION OF CLOSING OF ROAD" under the subheading "Description", Lot 7002, DP 752041 should be replaced with Lot 7002, DP 1119299. File Ref: MN05 H 231

TONY KELLY, M.L.C.,
 Minister for Lands

TAMWORTH OFFICE
25-27 Fitzroy Street (PO Box 535), Tamworth NSW 2340
Phone: (02) 6764 5100 Fax: (02) 6766 3805

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance to the provisions of the Roads Act 1993, the road hereunder specified is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,
 Minister for Lands

Description

*Locality – Nundle; Land District – Tamworth;
 L.G.A. – Tamworth Regional*

Road Closed: Lots 1, 2, 3, 4, 5, 6, 7 and 8 in Deposited Plan 1118917, Parish Nundle, County Parry. File No.: 07/5067.

Note: On closing, title to the land comprised in Lots 1 to 8 inclusive, will remain vested in the State of New South Wales as Crown Land.

Description

*Locality – Gunnedah; Land District – Gunnedah;
 L.G.A. – Gunnedah Shire*

Road Closed: Lot 1 in Deposited Plan 1120610, Parish Burburgate, County Nandewar. File No.: 07/2934.

Note: On closing title to the land comprised in Lot 1, will remain vested in the State of New South Wales as Crown Land.

Description

*Locality – Ogunbil; Land District – Tamworth;
 L.G.A. – Tamworth Regional*

Roads Closed: Lot 1 in Deposited Plan 1119471, Parish Ogunbil, County Parry. File No.: TH05 H 254.

Note: On closing, title to the land comprised in Lot 1 will remain vested in the State of New South Wales as Crown Land.

WAGGA WAGGA OFFICE
Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650
Phone: (02) 6937 2700 Fax: (02) 6921 1851

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance of the provisions of the Roads Act, 1993, the road hereunder specified is closed, the road ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,
 Minister for Lands

Description

*Parish – South Wagga Wagga; County - Wynyard
 Land District – Wagga Wagga;
 L.G.A. – Wagga Wagga City*

Lot 1 in DP 1121936 at Wagga Wagga.
 File No.: WA07 H 343

Note: On closing, the land within the former Council public road will remain vested in the Council of the City of Wagga Wagga as operational land.

WESTERN REGION OFFICE
45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830
Phone: (02) 6883 3000 Fax: (02) 6883 3099

GRANTING OF A WESTERN LANDS LEASE

IT is hereby notified that under the provisions of section 28A of the Western Lands Act 1901, the Western Lands Leases of the lands specified in the following Schedule have been granted to the undermentioned persons.

The leases are subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder.

The land is to be used only for the purpose of Residence.

Initial rent will be \$100.00 per annum and re-assessed thereafter annually on 1st April of each year.

The Conditions and Reservations annexed to such leases are those Conditions published in the *New South Wales Government Gazette* of 25 May 2007, Folios 2974-2975.

All amounts due and payable to the Crown must be paid to the Department of Lands by the due date.

TONY KELLY, M.L.C.,
Minister for Lands

*Administrative District – Walgett North; Shire – Walgett
Parish – Wallangulla/Mebea; County – Finch*

WLL No.	Name of Lessee	Lot	Deposited Plan No.	Folio identifier	Area	Term of Lease	
						From	To
WLL14892	Marsden John DOBBS	159	1073508	159/1073508	2209m ²	24-Jan-2008	23-Jan-2028
WLL14941	Jeffrey Dale SMITH and Glenda Margriet SMITH as Joint Tenants	7	1057617	7/1057617	2224m ²	24-Jan-2008	23-Jan-2028
WLL14951	Stephen Michael FENNELL	325	1076808	325/1076808	2510m ²	24-Jan-2008	23-Jan-2028
WLL14852	Jenny TOLO and Homere REMAILI as Joint Tenants	181	1076808	181/1076808	2113m ²	24-Jan-2008	23-Jan-2028
WLL14948	Lorraine MACKANDER	62	1073508	62/1073508	2612m ²	24-Jan-2008	23-Jan-2028
WLL14943	Stjepan MATIC	74	1076808	74/1076808	2456m ²	24-Jan-2008	23-Jan-2028
WLL15004	John Francis MICKAN	78	1076808	78/1076808	2004m ²	24-Jan-2008	23-Jan-2028
WLL14989	Genevieve NEXER	278 110	1076808 1073508	278/1076808 110/1073508	2843m ²	24-Jan-2008	23-Jan-2028
WLL14851	Wlodzimierz MERTA	339	1076808	339/1076808	1762m ²	24-Jan-2008	23-Jan-2028
WLL14831	Tara-Lee DURRANCE	427	1076808	247/1076808	2527m ²	24-Jan-2008	23-Jan-2028
WLL14930	Jeffrey Raymond SHARMAN	52	1057617	52/1057617	2525m ²	24-Jan-2008	23-Jan-2028
WLL14853	Peter McLEOD	70	1057617	70/1057617	2421m ²	24-Jan-2008	23-Jan-2028
WLL14747	Graham David LAW, Anne TURNER and Patrick SMITH as Joint Tenants	106	1076808	106/1076808	2025m ²	24-Jan-2008	23-Jan-2028
WLL14958	Trevor Keith SHEPHERD	80	1073508	80/1073508	1864m ²	24-Jan-2008	23-Jan-2028
WLL14614	Joan Gebetsberger	92	1066289	92/1066289	2588m ²	24-Jan-2008	23-Jan-2028

GRANTING OF A WESTERN LANDS LEASE

IT is hereby notified that under the provisions of Section 28A of the Western Lands Act 1901, the Western Lands Lease of the land specified has been granted to the undermentioned persons.

The lease is subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder and to the special conditions, provisions, exceptions, covenants and reservations set out hereunder.

The land is to be used only for the purpose for which the lease is granted.

All amounts due and payable to the Crown must be paid to the Department of Lands by the due date.

TONY KELLY MLC,
Minister for Lands

*Administrative District – Cobar;
Shire – Cobar Shire Council
Parish – Cohn; County – Robinson*

Western Lands Lease 14932 was granted to Barry John COATH, comprising Lot 4249, DP 766877 (folio identifier 4249/766877) of 407.7 hectares at Cobar, for the purpose of "Accommodation Paddock" for a term of 20 years commencing 15 September 2007 and expiring 14 September 2027. Papers: WLL 14932

CONDITIONS AND RESERVATIONS ATTACHED TO WESTERN LANDS LEASE 14932

- (1) In the conditions annexed to the lease, the expression "the Minister" means the Minister administering the Western Lands Act 1901, and any power, authority, duty or function conferred or imposed upon the Minister by or under those conditions may be exercised or performed either by the Minister or by such officers of the Department of Infrastructure, Planning and Natural Resources as the Minister may from time to time approve.
- (2) In these conditions and reservations the expression "the Commissioner" means the Commissioner charged with the administration of the Western Lands Act 1901 ("the Act") in accordance with section 4 (2) of the Act.
- (3)
 - (a) For the purposes of this clause the term Lessor shall include Her Majesty the Queen Her Heirs and Successors the Minister and the agents servants employees and contractors of the Lessor Her Majesty Her Majesty's Heirs and Successors and the Minister.
 - (b) The lessee covenants with the Lessor to indemnify and keep indemnified the Lessor from and against all claims for injury loss or damage suffered by any person or body using or being in or upon the Premises or any adjoining land or premises of the Lessor arising out of the Holder's use of the Premises and against all liabilities for costs charges and expenses incurred by the Lessor in respect of the claim of any such person or body except to the extent that any such claims and demands arise wholly from any negligence or wilful act or omission on the part of the Lessor.
 - (c) The indemnity contained in this clause applies notwithstanding that this Lease authorised or required the lessee to undertake or perform the activity giving rise to any claim for injury loss or damage.
- (4) The lessee expressly agrees that the obligations of the Holder under this clause shall continue after the expiration or sooner determination of this Lease in respect of any act deed matter or thing occurring before such expiration or determination.
- (5) The rent of the lease shall be assessed in accordance with Part 6 of the Western Lands Act 1901.
- (6) The rent shall be due and payable annually in advance on 1 July in each year.
 - (a) "GST" means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.
"GST law" includes any Act order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.
 - (b) Notwithstanding any other provision of this Agreement:
 - (i) If a GST applies to any supply made by either party under or in connection with this Agreement, the consideration provided or to be provided for that supply will be increased by an amount equal to the GST liability properly incurred by the party making the supply.
 - (ii) If the imposition of a GST or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes, duties or statutory charges (in this clause "taxes"), the consideration payable by the recipient of the supply made under this Agreement will be reduced by the actual costs of the party making the supply that are reduced directly or indirectly as a consequence of the abolition of or reduction in taxes.
- (7) The lessee shall pay all rates and taxes assessed on or in respect of the land leased during the currency of the lease.
- (8) The lessee shall hold and use the land leased bona fide for the lessee's own exclusive benefit and shall not transfer, convey or assign the land or any portion thereof without having first obtained the written consent of the Minister.
- (9) The lessee shall not enter into a sublease of the land leased unless the sublease specifies the purpose for which the land may be used under the sublease, and it is a purpose which is consistent with the purpose for which the land may be used under this lease.
- (10) If the lessee enters into a sublease of the land leased, the lessee must notify the Commissioner of the granting of the sublease within 28 days after it is granted.
- (11) The land leased shall be used only for the purpose of Accommodation Paddock.
- (12) The lessee shall maintain and keep in reasonable repair all improvements on the land leased during the currency of the lease and shall permit the Minister or the Commissioner or any person authorised by the

- Minister or the Commissioner at all times to enter upon and examine the whole or any part of the land leased and the buildings or other improvements thereon.
- (13) All minerals within the meaning of the Mining Act 1992, and all other metals, gemstones and semiprecious stones, which may be in, under or upon the land leased are reserved to the Crown and the lessee shall permit any person duly authorised in that behalf to enter upon the land leased and search, work, win and remove all or any minerals, metals, gemstones and semiprecious stones in, under or upon the land leased.
- (14) Mining operations may be carried on, upon and in the lands below the land leased and upon and in the lands adjoining the land leased and the lands below those lands and metals and minerals may be removed therefrom and the Crown and any lessee or lessees under any Mining Act or Acts shall not be subject to any proceedings by way of injunction or otherwise in respect of or be liable for any damage occasioned by the letting down, subsidence or lateral movement of the land leased or any part thereof or otherwise by reason of the following acts and matters, that is to say, by reason of the Crown or any person on behalf of the Crown or any lessee or lessees, having worked now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for, worked, won or removed or now or hereafter searching for, working, winning or removing any metals or minerals under, in or from the lands lying beneath the land leased or any part thereof or on, in, under or from any other lands situated laterally to the land leased or any part thereof or the lands lying beneath those lands, and whether on or below the surface of those other lands and by reason of those acts and matters or in the course thereof the Crown reserves the liberty and authority for the Crown, any person on behalf of the Crown and any lessee or lessees from time to time to let down without payment of any compensation any part of the land leased or of the surface thereof.
- (15) The lessee shall comply with the provisions of the Local Government Act 1993, and of the ordinances made thereunder.
- (16) The lessee shall ensure that the land leased is kept in a neat and tidy condition to the satisfaction of the Commissioner and not permit refuse to accumulate on the land.
- (17) Upon termination or forfeiture of the lease the Commissioner may direct that the former lessee shall remove any structure or material from the land at his own cost and without compensation. Where such a direction has been given the former lessee shall leave the land in a clean and tidy condition free from rubbish and debris.
- (18) The lessee shall, within 1 year from the date of commencement of the lease or such further period as the Commissioner may allow, enclose the land leased, either separately or conjointly with other lands held in the same interest, with a suitable fence to the satisfaction of the Commissioner.
- (19) The lessee shall not obstruct or interfere with any reserves, roads or tracks on the land leased or the lawful use thereof by any person.
- (20) The lessee shall erect gates on roads within the land leased when and where directed by the Commissioner for public use and shall maintain those gates together with approaches thereto in good order to the satisfaction of the Commissioner.
- (21) The right is reserved to the public of free access to, and passage along, the bank of any watercourse adjoining the land leased and the lessee shall not obstruct access or passage by any member of the public to or along the bank.
- (22) Any part of a reserve for travelling stock, camping or water supply within the land leased shall, during the whole currency of the lease, be open to the use of bona fide travellers, travelling stock, teamsters and carriers without interference or annoyance by the lessee and the lessee shall post in a conspicuous place on the reserve a notice board indicating for public information the purpose of such reserve and, in fencing the land leased, the lessee shall provide gates and other facilities for the entrance and exit of travelling stock, teamsters and others. The notice board, gates and facilities shall be erected and maintained to the satisfaction of the Commissioner. The lessee shall not overstock, wholly or in part, the areas leased within the reserve, the decision as to overstocking resting with the Commissioner.
- (23) The Crown shall not be responsible to the lessee or the lessee's successors in title for provision of access to the land leased.
- (24) The lessee shall comply with requirements of section 18DA of the Western Lands Act 1901 which provides that except in circumstances referred to in subsection (3) of that section, cultivation of the land leased or occupied may not be carried out unless the written consent of the Department has first been obtained and any condition to which the consent is subject under subsection (6) is complied with.
- (25) Notwithstanding any other condition annexed to the lease, the lessee shall, in removing timber for the purpose of building, fencing or firewood, carefully preserve all timber, scrub, vegetative cover and any regeneration thereof (except noxious plants and those "woody weeds" specified in Clause 28 (1) and parts 9 and 13 in Schedule 4 of the Regulations) on the following parts of the land leased:
- (a) between the banks of, and within strips at least 20 metres wide along each bank of, any creek or defined watercourse;
 - (b) within strips at least 30 metres wide on each side of the centre line of any depression, the sides of which have slopes in excess of 1 (vertically) in 4 (horizontally), that is, approximately 14 degrees;
 - (c) where the slopes are steeper than 1 (vertically) in 3 (horizontally), that is, approximately 18 degrees;
 - (d) within strips not less than 60 metres wide along the tops of any ranges and main ridges;
 - (e) not in contravention of section 21CA of the Soil Conservation Act 1938.

In addition to the foregoing requirements of this condition, the lessee shall preserve on so much of the land leased as is not the subject of a clearing licence (where possible, in well distributed clumps or strips) not less than an average of 30 established trees per hectare, together with any other timber, vegetative cover or any regeneration thereof which may, from time to time, be determined by the Commissioner to be useful or necessary for soil conservation or erosion mitigation purposes or for shade and shelter.

- (26) The lessee shall not interfere with the timber on any of the land leased which is within a State forest, timber reserve or flora reserve unless authorisation has been obtained under the provisions of the Forestry Act 1916 and shall not prevent any person or persons duly authorised in that behalf from taking timber on the land leased. The lessee shall not have any property right in the timber on the land leased and shall not ringbark, kill, destroy or permit the killing or destruction of any timber unless authorised under the Forestry Act 1916 or unless a clearing licence has been issued pursuant to section 18DB of the Western Lands Act 1901, but the lessee may take such timber as the lessee may reasonably require for use on the land leased or on any contiguous land held in the same interest, for building, fencing or firewood.
- (27) The lessee shall take all necessary steps to protect the land leased from bush fire.
- (28) The lessee shall, as the Commissioner may from time to time direct, foster and cultivate on the land leased such edible shrubs and plants as the Commissioner may consider can be advantageously and successfully cultivated.
- (29) Whenever so directed by the Commissioner, the lessee shall, on such part or parts of the land leased as shall be specified in the direction, carry out agricultural practices or refrain from agricultural practices, of such types and for such periods as the Commissioner may in the direction specify.
- (30) The lessee shall not overstock or permit or allow to be overstocked, the land leased and the decision of the Commissioner as to what constitutes overstocking shall be final and the lessee shall comply with any directions of the Commissioner to prevent or discontinue overstocking.
- (31) The lessee shall, if the Commissioner so directs, prevent the use by stock of any part of the land leased for such periods as the Commissioner considers necessary to permit of the natural reseedling and regeneration of vegetation and, for that purpose, the lessee shall erect within the time appointed by the Commissioner such fencing as the Commissioner may consider necessary.
- (32) The lessee shall furnish such returns and statements as the Commissioner may from time to time require on any matter connected with the land leased or any other land (whether within or outside the Western Division) in which the lessee has an interest.
- (33) The lessee shall, within such time as may be specified by the Commissioner take such steps and measures as the Commissioner shall direct to destroy vermin and such animals and weeds as may, under any Act from time to time be declared (by declaration covering the land leased) noxious in the Gazette and shall keep the land free of such vermin and noxious animals and weeds during the currency of the lease to the satisfaction of the Commissioner.
- (34) The lessee shall not remove or permit any person to remove gravel, stone, clay, shells or other material for the purpose of sale from the land leased unless the lessee or the person is the holder of a quarry license under regulations made under the Crown Lands Act 1989 or, in respect of land in a State forest, unless the lessee or the person is the holder of a forest materials licence under the Forestry Act 1916, and has obtained the special authority of the Minister to operate on the land, but the lessee may, with the approval of the Commissioner, take from the land such gravel, stone, clay, shells or other material for building and other purposes upon the land as may be required by the lessee.
- (35) The lessee shall comply with the provisions of the Protection of the Environment Operations Act 1997.
- (36) If the lessee is an Australian registered company than the following conditions shall apply:
- I The Lessee will advise the Commissioner of the name, address and telephone number of the Lessee's company secretary, that person being a person nominated as a representative of the company in respect of any dealings to be had with the company. The Lessee agrees to advise the Commissioner of any changes in these details.
 - II Any change in the shareholding of the Lessee's company which alters its effective control of the lease from that previously known to the Commissioner shall be deemed an assignment by the Lessee.
 - III Where any notice or other communication is required to be served or given or which may be convenient to be served or given under or in connection with this lease it shall be sufficiently executed if it is signed by the company secretary.
 - IV A copy of the company's annual financial balance sheet or other financial statement which gives a true and fair view of the company's state of affairs as at the end of each financial year is to be submitted to the Commissioner upon request.

DECLARATION OF LAND TO BE CROWN LAND

PURSUANT to section 138 of the Crown Lands Act 1989, the Minister for Lands declares the land described in the Schedule hereunder to be Crown land (File WLL 12521)

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

Being Lot 1 in Deposited Plan 1103521 (Folio Identifier 1/1103521) in the Parish of North Bourke, County of Gunderbooka of 1183 square metres. The land was previously held as Estate in Fee Simple by Norman and Wendy Hopper and was acquired by the Crown by way of gift to facilitate its addition to Western Lands Lease 12521.

ADDITION TO A WESTERN LANDS LEASE

IT is hereby notified that in pursuance of Section 35C of the Western Lands Act 1901, the land particularised hereunder has been added to the undermentioned Western Lands Lease.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

Western Lands Lease No.: 12521
Name of Lessee: Norman Victor HOPPER and Wendy Joy HOPPER
Area Added: Lot 1, DP 1103521, Parish of North Bourke, County of Gunderbooka of 1183 sq.m. (Folio Identifier 1/1103521)
Total Area Following Addition: Lot 92, DP 720100 and Lot 1, DP 1103521, Parish of North Bourke, County of Gunderbooka of 9277 sq.m. (Folio Identifiers 92/720100 and 1/1103521)
Date of Addition: 1 February 2008
Administrative District: Bourke
Shire: Bourke

REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown Land specified in Column 1 of the Schedule hereunder, is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

<i>Column 1</i>	<i>Column 2</i>
Land District: Broken Hill Council: Broken Hill City Parish: Picton County: Yancowinna Location: Broken Hill Reserve: 1013830 Purpose: For Future Public Requirements Date of Notification: 29 June 2007 File: WL96 H 48	Part of Reserve 1013830 comprising the whole of Lot 1, DP 1119598

Department of Planning



New South Wales

Gosford Local Environmental Plan No 464

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (CC0000049/PC-1)

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 Gosford Local Environmental Plan No 464

Gosford Local Environmental Plan No 464

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Gosford Local Environmental Plan No 464*.

2 Aims of plan

This plan aims to facilitate the disposal of surplus government land, being Gosford Horticultural Institute.

3 Land to which plan applies

This plan applies to Lot 1, DP 1087535, Research Road, Narara, as shown on the map marked "Gosford Local Environmental Plan No 464" deposited in the office of the Gosford City Council.

4 Amendment of Gosford Planning Scheme Ordinance

Gosford Planning Scheme Ordinance is amended as set out in Schedule 1.

5 Amendment of Interim Development Order No 122—Gosford

Interim Development Order No 122—Gosford is amended as set out in Schedule 2.

Gosford Local Environmental Plan No 464

Amendment of Gosford Planning Scheme Ordinance

Schedule 1

Schedule 1 Amendment of Gosford Planning Scheme Ordinance

(Clause 4)

[1] Clause 3 Interpretation

Insert in appropriate order in the definition of *Scheme map* in clause 3 (1):
Gosford Local Environmental Plan No 464—Sheet 1

[2] Clause 49U

Insert after clause 49T:

49U Subdivision and regional transport infrastructure—Gosford Horticultural Institute

- (1) This clause applies to the land shown coloured light scarlet with heavy black edging and lettered “2 (a)” on Sheet 1 of the map marked “Gosford Local Environmental Plan No 464” deposited in the office of the Council, 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 regional transport infrastructure and services 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.
- (3) Despite any other provision of this Ordinance, the Council must not grant consent to the subdivision of the land to which this clause applies if the subdivision of land would create additional lots on land that, immediately before the commencement of *Gosford Local Environmental Plan No 464*, was within Zone No 5 (a) (Special Uses), unless the Director-General has certified in writing to the Council that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services in relation to those lots.
- (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 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 purposes only of rectifying an encroachment on any existing allotment.

Gosford Local Environmental Plan No 464

Schedule 1 Amendment of Gosford Planning Scheme Ordinance

- (6) *State Environmental Planning Policy No 1—Development Standards* does not apply to development for the purposes of subdivision in respect of land to which this clause applies.

[3] Schedule 8 Environmental Heritage

Insert after the matter relating to No 39 Pearsons Street, Narara, under the heading **heritage items**:

Former Grafting Shed/Administration Block and curtilage, Gosford Horticultural Institute, Research Road, Narara.

Group of *Araucaria cunninghamii* (Hoop Pines) near farm complex, Gosford Horticultural Institute, Research Road, Narara.

Group of *Taxodium distichum* (Bald Cypress) inside front gate, Gosford Horticultural Institute, Research Road, Narara.

Manager's Cottage, Hen House (former Shower Block) and curtilage, Gosford Horticultural Institute, Research Road, Narara.

Main Entrance Gate Posts, Gosford Horticultural Institute, Research Road, Narara.

Plantation of *Carya illinoensis* (Pecan), Gosford Horticultural Institute, Research Road, Narara.

Row of *Pyrus calleryana* (Callery Pear), Gosford Horticultural Institute, Research Road, Narara.

Specimen of *Syncarpia glomulifera* (Turpentine) on eastern boundary, Gosford Horticultural Institute, Research Road, Narara.

Type specimen of *Pyrus calleryana* (Callery Pear) strain D6, Gosford Horticultural Institute, Research Road, Narara.

Gosford Local Environmental Plan No 464

Amendment of Interim Development Order 122—Gosford

Schedule 2

Schedule 2 Amendment of Interim Development Order 122—Gosford

(Clause 5)

[1] Clause 2

Insert at the end of clause 2 (2A):

Land at Narara, being part of Lot 1, DP 1087535, as shown distinctively coloured and lettered, on the map marked “Gosford Local Environmental Plan No 464—Sheet 1” deposited in the office of the Council.

[2] Clause 3

Insert in appropriate order in the definition of *I.D.C. Map* in clause 3 (1):

Gosford Local Environmental Plan No 464—Sheet 2



New South Wales

Newcastle City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S06/01148/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Newcastle City Centre Local Environmental Plan 2008

Contents

	Page
Part 1 Preliminary	
1 Name of Plan	4
2 Aims of Plan	4
3 Land to which Plan applies	5
4 Definitions	5
5 Notes	5
6 Consent authority	5
7 Maps	5
8 Repeal of other local planning instruments applying to land	5
9 Suspension of covenants, agreements and instruments	6
10 Application of SEPPs and REPs	6
Part 2 Permitted or prohibited development	
11 Land use zones	8
12 Zoning of land to which Plan applies	8
13 Zone objectives and land use table	8
14 Unzoned land	9
15 Additional permitted uses for particular land	9
16 Subdivision—consent requirements	9
17 Temporary use of land	10
Land Use Table	
Part 3 Exempt and complying development	
18 Exempt development	16
19 Complying development	17
20 Environmentally sensitive areas excluded	18
Part 4 Principal development standards and related provisions	
21 Height of buildings	19
22 Architectural roof features	19
23 Floor space ratio	20
24 City East precinct—exception to clauses 21 and 23	23
25 Minimum building street frontage	24
26 Car parking	25
27 Building separation	25
28 Exceptions to development standards	25

Newcastle City Centre Local Environmental Plan 2008

Contents

		Page
Part 5	Miscellaneous provisions	
29	Land acquisition within certain zones	28
30	Development on proposed classified road	28
31	Classification and reclassification of public land	29
32	Community use of educational establishments	30
33	Ecologically sustainable development	30
34	Public safety—licensed premises	30
35	Serviced apartments	31
36	Design excellence	31
37	Ground floors of buildings within Zone B3 Commercial Core	33
38	Wickham Redevelopment Area	33
39	Classified roads	34
40	Development in proximity to a rail corridor	34
41	Development within the coastal zone	35
42	Development below mean high water mark	37
43	Development on flood prone land	37
44	Excavation and filling of land	38
45	Preservation of trees or vegetation	39
46	Heritage conservation	40
47	Bush fire hazard reduction	44
48	Development for group homes	44
49	Crown development and public utilities	45
50	Council development	48
Schedule 1	Additional permitted uses	50
Schedule 2	Exempt development	51
Schedule 3	Complying development	70
Schedule 4	Classification and reclassification of public land	80
Schedule 5	Environmental heritage	81
Dictionary		91

Clause 1 Newcastle City Centre Local Environmental Plan 2008

Part 1 Preliminary

Newcastle City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Plan

This Plan is *Newcastle City Centre Local Environmental Plan 2008*.

2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in the Newcastle city centre that are generally in accordance with the relevant standard environmental planning instrument (as in force on 31 December 2007) under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to promote the economic revitalisation of the Newcastle city centre,
 - (b) to strengthen the regional position of the Newcastle city centre as a multi-functional and innovative centre that encourages employment and economic growth,
 - (c) to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of the Newcastle city centre, and the quality of life of its local population,
 - (d) to promote the employment, residential, recreational and tourism opportunities within the Newcastle city centre,
 - (e) to facilitate the development of building design excellence appropriate to a regional city,
 - (f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that the Newcastle city centre achieves sustainable social, economic and environmental outcomes,
 - (g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Newcastle city centre for the benefit of present and future generations,

Newcastle City Centre Local Environmental Plan 2008

Clause 3

Preliminary

Part 1

-
- (h) to help create a mixed use place, with activity during the day and throughout the evening, so the Newcastle city centre is safe, attractive, inclusive and efficient for its local population and visitors alike.

3 Land to which Plan applies

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

4 Definitions

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

5 Notes

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

6 Consent authority

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

7 Maps

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

Note. The maps adopted by this Plan are the Floor Space Ratio Map, the Height of Buildings Map, the Heritage Map, the Key Sites Map, the Land Application Map, the Land Reservation Acquisition Map, the Land Zoning Map and the Wickham Redevelopment Area Map.

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.

Clause 9 Newcastle City Centre Local Environmental Plan 2008

Part 1 Preliminary

- (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.

9 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*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*.
- (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).

10 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.

Newcastle City Centre Local Environmental Plan 2008

Clause 10

Preliminary

Part 1

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- (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)

State Environmental Planning Policy No 9—Group Homes

State Environmental Planning Policy No 60—Exempt and Complying Development

State Environmental Planning Policy No 71—Coastal Protection

Hunter Regional Environmental Plan 1989

Clause 11	Newcastle City Centre Local Environmental Plan 2008
Part 2	Permitted or prohibited development

Part 2 Permitted or prohibited development

11 Land use zones

The land use zones under this Plan are as follows:

Residential Zones

R3 Medium Density Residential

Business Zones

B3 Commercial Core

B4 Mixed Use

Special Purpose Zones

SP2 Infrastructure

Recreation Zones

RE1 Public Recreation

12 Zoning of land to which Plan applies

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

13 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.

Newcastle City Centre Local Environmental Plan 2008

Clause 14

Permitted or prohibited development

Part 2

-
- 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 16 requires consent for subdivision of land.
 - 5 Part 5 contains other provisions which require consent for particular development. (See, for example, clause 46.)

14 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.

15 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 any other provision of this Plan.

16 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,

Clause 17 Newcastle City Centre Local Environmental Plan 2008

Part 2 Permitted or prohibited development

-
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,
 - (g) 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.

17 Temporary use of land

- (1) Despite any other provision of this Plan, but subject to subclauses (2) and (3), consent may be granted for the use of land 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 or will be made for the removal of any waste or any temporary structures associated with the temporary use and for the restoration of the 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 *Crown Lands Act 1989*.
- (2) Development consent may be granted for the temporary use of land (or a building on land) for not more than 52 days, whether consecutive or not, in any one year.
- (3) Development consent may be granted for a temporary use over a period of not more than 3 consecutive years.

Newcastle City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

Land Use Table

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide for a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow some diversity of activities and densities if:
 - the scale and height of proposed buildings is compatible with the character of the locality, and
 - traffic generation can be managed in a way that avoids adverse impacts on the local road system, and
 - there will be no significant adverse impact on the amenity of any existing or proposed development nearby.
- To encourage increased population levels in locations that will support the commercial viability of the Newcastle city centre provided that the associated new development:
 - has regard to the desired future character of residential streets, and
 - does not significantly detract from the amenity of any existing or proposed development nearby.

2 Permitted without consent

Nil

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Car parks (but only public car parks provided by or on behalf of the Council); Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Food and drink premises; Group homes; Health consulting rooms; Home businesses; Hospitals; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Roads; Seniors housing; Shop top housing; Tourist and visitor accommodation; Utility installations.

Clause 17 Newcastle City Centre Local Environmental Plan 2008

Part 2 Land Use Table

4 Prohibited

Any development not specified in item 2 or 3.

Zone B3 Commercial Core

1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of the Newcastle city centre as the regional business, retail and cultural centre of the Hunter region.
- To provide for land uses of a higher order and density within the Commercial Core zone than those located within the Mixed Use zone.
- To encourage a diverse and compatible range of activities including:
 - commercial and retail development, and
 - cultural and entertainment facilities, and
 - tourism, leisure and recreation facilities, and
 - social, education and health services.
- To provide for residential development that contributes to the vitality of the Newcastle city centre, where provided within a mixed use development.
- To create opportunities to improve the public domain and pedestrian links throughout the Newcastle city centre.
- To provide for the retention and creation of view corridors.
- To protect and enhance the unique qualities and character of special areas within the Newcastle city centre.

2 Permitted without consent

Nil

3 Permitted with consent

Advertisements; Business premises; Car parks (but only if required by this Plan or public car parks provided by or on behalf of the Council); Child care centres; Community facilities; Educational establishments;

Newcastle City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

Entertainment facilities; Food and drink premises; Function centres; Hospitals; Information and education facilities; Kiosks; Markets; Medical centres; Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Public halls; Recreation facilities (indoor); Registered clubs; Residential flat buildings (but only as a component of mixed use developments involving a permitted non-residential use); Retail premises; Roads; Seniors housing; Serviced apartments; Sex services premises; Tourist and visitor accommodation; Utility installations.

4 Prohibited

Any development not specified in item 2 or 3.

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the higher order Commercial Core zone, while providing for the daily needs of the Mixed Use zone.
- To encourage a diverse and compatible range of activities including:
 - commercial and retail development, and
 - cultural and entertainment facilities, and
 - tourism, leisure and recreation facilities, and
 - social, education and health services, and
 - higher density residential development.
- To allow development along the coastline to take advantage of and retain view corridors whilst avoiding a continuous built edge along the waterfront.
- To create opportunities to improve the public domain and pedestrian links within the Mixed Use zone.
- To protect and enhance the unique qualities and character of special areas within the Newcastle city centre.

2 Permitted without consent

Nil

Clause 17 Newcastle City Centre Local Environmental Plan 2008

Part 2 Land Use Table

3 Permitted with consent

Any development not specified in item 2 or 4.

4 Prohibited

Bulky goods premises having a gross floor area greater than 400 square metres; Car parks (other than car parks required by this Plan or public car parks provided by or on behalf of the Council); Caravan parks; Cemeteries; Extractive industries; Hazardous industries; Hazardous storage establishments; Industries (excluding light industries); Liquid fuel depots; Mines; Offensive industries; Offensive storage establishments; Roadside stalls; Warehouses or distribution centres; Waste management facilities.

Zone SP2 Infrastructure

1 Objectives of zone

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

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; Car parks (but only if required by this Plan or public car parks provided by or on behalf of the Council); Commercial activities; Drainage; Earthworks; Passenger transport facilities; Roads; Telecommunications facilities; Temporary structures; Utility installations.

4 Prohibited

Any development not specified in item 2 or 3.

Zone RE1 Public Recreation

1 Objectives of zone

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

Newcastle City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

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- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Environmental facilities; Environmental protection works.

3 Permitted with consent

Boat launching ramps; Boat repair facilities; Car parks (but only if required by this Plan or public car parks provided by or on behalf of the Council); Caravan parks; Child care centres; Community facilities; Flood mitigation works; Kiosks; Marinas; Passenger transport facilities; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Restaurants; Roads; Tourist and visitor accommodation; Utility installations; Any development allowed by a plan of management under the *Local Government Act 1993* or *Crown Lands Act 1989*.

4 Prohibited

Any development not specified in item 2 or 3.

Clause 18 Newcastle City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

Part 3 Exempt and complying development

18 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 20).
 - (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.

Newcastle City Centre Local Environmental Plan 2008

Clause 19

Exempt and complying development

Part 3

19 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 Part 1 of 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 development, and
 - (b) the requirements of this Part,
 is complying development.
 - (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.

Clause 20 Newcastle City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

20 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) Exempt or complying development must not be carried out on flood prone land except where otherwise expressly provided in Schedule 2 or 3.
- (3) 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*.

Newcastle City Centre Local Environmental Plan 2008

Clause 21

Principal development standards and related provisions

Part 4

Part 4 Principal development standards and related provisions

21 Height of buildings

- (1) The objectives for the control of the height of buildings are as follows:
 - (a) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,
 - (b) to ensure that the built form of the Newcastle city centre develops in a coordinated and cohesive manner,
 - (c) to ensure that taller buildings are appropriately located,
 - (d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
 - (e) to ensure the preservation of view corridors that are significant for historic and urban design reasons.
- (2) Subject to subclauses (3) and (4) and the other provisions of this Plan, 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.
- (3) Subject to clause 22, street frontage heights of a building in a section shown by distinctive marking in figure 2.10 of the City Centre Development Control Plan 2006 are not to exceed the maximum heights shown for that section in whichever of figure 2.11, 2.12 and 2.13 of that plan relates to that section.

Note. Figures 2.10–2.13 are in Part 2.8 of the City Centre Development Control Plan 2006.
- (4) The height of a building on land within the area bounded by Hunter Street, King Street, Newcomen Street and Perkins Street may exceed the maximum height referred to in subclause (2) if:
 - (a) the site area concerned is greater than 10,000 square metres, and
 - (b) the height of any building on that land does not exceed 40 metres Australian Height Datum, and
 - (c) the consent authority is satisfied that the impact of the height of the building on view corridors, identified in *Newcastle Development Control Plan 2005*, to and from the Christchurch Cathedral and the Hunter River foreshore is not unreasonable.

22 Architectural roof features

- (1) Development involving an architectural roof feature that exceeds, or causes a building to exceed, 14 metres in height may be carried out, but only with consent.

Clause 23	Newcastle City Centre Local Environmental Plan 2008
Part 4	Principal development standards and related provisions

- (2) Development consent must not be granted for any such development unless the consent authority is satisfied that the architectural roof feature:
- (a) comprises a decorative element on the uppermost portion of a building, and
 - (b) does not support any advertisements, and
 - (c) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (d) causes minimal overshadowing, and
 - (e) if the feature supports any business or building identification sign or contains equipment or structures for servicing the building (such as plant, lift motor rooms, fire stairs and the like)—the sign, equipment or structure is fully integrated into the design of the feature.
- (3) Nothing in this clause restricts the operation of clause 28.

23 Floor space ratio

- (1) The objectives of this Plan for the control of floor space ratios are as follows:
- (a) to ensure a degree of equity in relation to development potential for sites of different sizes and for sites located in different parts of the Newcastle city centre,
 - (b) to ensure that proposals for new buildings are assessed with due regard to the design excellence and built form provisions of this Plan,
 - (c) to provide sufficient floor space for high quality development for the foreseeable future,
 - (d) to regulate density of development and generation of vehicular and pedestrian traffic,
 - (e) to facilitate development that contributes to the economic growth of the Newcastle 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.
- (3) Despite subclause (2) and except as provided by subclauses (4) and (7), the maximum floor space ratio for a building on land that is:
- (a) in Area A, and
 - (b) in a zone specified in the Table to this subclause, and

Newcastle City Centre Local Environmental Plan 2008

Clause 23

Principal development standards and related provisions

Part 4

- (c) on land for which the maximum building height is as specified in Column 1 of the Table under the heading for that zone,
is the amount specified opposite that height in Column 2 of the Table if the building is not used for a commercial activity or in Column 3 if the building is used only for a commercial activity.

Table—Maximum FSR in Area A

Column 1	Column 2	Column 3
B3 Commercial Core zone		
24m, 30m or 35m	3.0:1	4.0:1
45m	3.0:1	6.0:1
60m	3.5:1	7.0:1
90m	3.5:1	8.0:1
B4 Mixed Use zone		
24m	2.5:1	3.0:1
30m or 35m	3.0:1	4.0:1
45m	3.5:1	5.0:1
60m	4.0:1	6.0:1

- (4) The maximum floor space ratio for a building in Area A that has a site area of less than 1,500 square metres is the least of the following:
- the floor space ratio determined in accordance with subclause (3),
 - 4.0:1,
 - the floor space ratio determined in accordance with subclause (7).
- (5) Despite subclause (2) and except as provided by subclause (7), the maximum floor space ratio for a building on land that is:
- in Area B, and
 - in a zone specified in the Table to this subclause, and
 - on land for which the maximum building height is as specified in Column 1 of the Table under the heading for that zone,
is the amount specified opposite that height in Column 2 of the Table if the building is not used for an educational and cultural activity or in Column 3 if the building is used only for an educational and cultural activity.

Clause 23	Newcastle City Centre Local Environmental Plan 2008
Part 4	Principal development standards and related provisions

Table—Maximum FSR in Area B

Column 1	Column 2	Column 3
B4 Mixed Use zone		
24m	2.5:1	3.0:1
30m or 35m	3.0:1	4.0:1
45m	3.5:1	5.0:1

- (6) Despite subclause (2) and except as provided by subclause (7), the maximum floor space ratio for a building on land that is:
- in Area C, and
 - in a zone specified in the Table to this subclause, and
 - on land for which the maximum building height is as specified in Column 1 of the Table under the heading for that zone,

is the amount specified opposite that height in Column 2 of the Table if the building is not used for a tourist activity or in Column 3 if the building is used only for a tourist activity.

Table—Maximum FSR in Area C

Column 1	Column 2	Column 3
B4 Mixed Use zone		
18m, 20m or 24m	2.5:1	3.0:1
30m or 36m	3.0:1	4.0:1
45m	3.5:1	5.0:1
60m	4.0:1	6.0:1

- (7) If a building within Area A, Area B or Area C is used for a combination of the specified activity for the Area and one or more other activities, the maximum floor space ratio for the building is:

$$((NFSR \times N/100) + (SFSR \times S/100)):1$$

where:

N is the percentage of the building used for an activity other than the specified activity.

NFSR is the maximum floor space ratio in accordance with this clause if the building were used only for an activity other than the specified activity.

S is the percentage of the building used for the specified activity.

Newcastle City Centre Local Environmental Plan 2008

Clause 24

Principal development standards and related provisions

Part 4

SFSR is the maximum floor space ratio in accordance with this clause if the building were used only for the specified activity.

Note. The following gives an example of how a maximum floor space ratio is to be calculated for a building on land, having a site area equal to or greater than 1,500 square metres and a maximum building height of 90m, that is within Zone B3 Commercial Core (located in Area A), 30 per cent of which is to be used for commercial activity and 70 percent of which is to be used for another activity:

$$((NFSR \times N/100) + (SFSR \times S/100)):1$$

$$((3.5 \times 70/100) + (8 \times 30/100)):1$$

$$(2.45 + 2.4):1$$

4.85:1 is the maximum floor space ratio.

(8) In this clause:

Area A means the area shown on the Floor Space Ratio Map edged heavy black and marked “Area A—Commercial”.

Area B means the area shown on the Floor Space Ratio Map edged heavy black and marked “Area B—Educational and Cultural”.

Area C means the area shown on the Floor Space Ratio Map edged heavy black and marked “Area C—Tourist”.

educational and cultural activity, in relation to the use of a building, means the use of the building for the purposes of a school, tertiary institution, community facility, hostel or boarding house for students, theatre, cinema, music hall, concert hall or lecture theatre or a combination of any such uses.

maximum building height, in relation to land, means the maximum building height shown for the land on the Height of Buildings Map.

specified activity means:

- (a) in relation to Area A—commercial activity, and
- (b) in relation to Area B—educational and cultural activity, and
- (c) in relation to Area C—tourist activity.

tourist activity, in relation to the use of a building, means the use of the building for the purposes of tourist and visitor accommodation or uses ancillary to the tourism industry (such as conference rooms or tourism-based business) or a combination of such uses.

Note. For the meaning of **commercial activity**, see the Dictionary.

Clauses 24 and 36 (6) enable the consent authority, in certain circumstances, to grant consent to buildings that exceed the maximum floor space ratios specified in this clause.

24 City East precinct—exception to clauses 21 and 23

- (1) This clause applies to buildings on land shown edged heavy blue and notated “City East” on the Height of Buildings Map.

Clause 25	Newcastle City Centre Local Environmental Plan 2008
Part 4	Principal development standards and related provisions

- (2) The consent authority may consent to development that causes a building to which this clause applies to exceed the maximum height set by clause 21 up to the height of an existing building on an adjoining site.
- (3) The consent authority may consent to development that causes the floor space ratio of a building to which this clause applies to exceed the maximum floor space ratio set by clause 23 up to the floor space ratio of an existing building on an adjoining site.
- (4) The height or floor space ratio of a building to which this clause applies may only exceed the maximum height or floor space ratio set by clause 21 or 23, up to the height or floor space ratio permitted under this clause, if the consent authority is satisfied that the building, having regard to development on the adjoining site, achieves an appropriate urban design outcome.
- (5) In considering whether a building achieves an appropriate design outcome, the consent authority must have regard to:
 - (a) an urban design analysis indicating how the building will integrate with the surrounding natural and urban environment (including existing streetscapes, built form, heritage values, view corridors and open space), and
 - (b) the views of any group or panel established by the Council to consult on urban design on the extent to which the building integrates with that surrounding environment.
- (6) For the purposes of this clause, a site adjoins another site only if it has a common boundary with that other site.
- (7) Nothing in this clause restricts the operation of clause 28.

25 Minimum building street frontage

- (1) A building that is erected on land within Zone B3 Commercial Core is to have at least one street frontage of 20 metres or more.
- (2) Despite subclause (1), the consent authority may grant development consent to the erection of a building that does not comply with that subclause if it is of the opinion that:
 - (a) due to the physical constraints of the site, it is not physically possible for the building to have at least one street frontage of 20 metres or more, and
 - (b) the erection of the building is consistent with the other relevant provisions of this Plan.
- (3) Nothing in this clause restricts the operation of clause 28.

Newcastle City Centre Local Environmental Plan 2008

Clause 26

Principal development standards and related provisions

Part 4

26 Car parking

- (1) If development involves the erection of a new building, or an alteration to an existing building that increases the gross floor area of the building:
 - (a) car parking must be provided in accordance with *Newcastle Development Control Plan 2005*, and
 - (b) at least one car parking space must be provided for every 60 square metres of gross floor area that is used for office premises.
- (2) Car parking required to be provided by this clause is to be provided on site unless the consent authority is satisfied that car parking will be adequately provided for elsewhere.
- (3) For the purposes of this clause, any area of the building that is used for car parking is to be included as part of a building's gross floor area, except where the car parking is provided as required by this clause.
- (4) Council-owned public car parking is not to be included as part of a building's gross floor area.

27 Building separation

- (1) A building on land to which this Plan applies must be erected so that the distance from the building to any other building is not less than 24 metres at 45 metres or higher above ground level.
- (2) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.

28 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

Clause 28	Newcastle City Centre Local Environmental Plan 2008
Part 4	Principal development standards and related provisions

- (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
- (iii) if 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 under the *Heritage Act 1977* or in Part 1 of Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*, the development will retain the heritage significance of the item, 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) 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).
- (7) 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*

Newcastle City Centre Local Environmental Plan 2008	Clause 28
Principal development standards and related provisions	Part 4

Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

- (c) a development standard in Part 5 (other than clause 38 (4)).

Clause 29 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

Part 5 Miscellaneous provisions

29 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 Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted by section 8 of the Act

- (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.

30 Development on proposed classified road

- (1) Consent for development on land reserved for the purposes of a classified road may, before the land becomes a classified road, be granted only if:
- the development is carried out with the concurrence of the Roads and Traffic Authority (**the RTA**), and
 - the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone.

Newcastle City Centre Local Environmental Plan 2008

Clause 31

Miscellaneous provisions

Part 5

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- (2) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes of a classified road or a proposed classified road,
 - (b) the imminence of acquisition of the land by the RTA,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.

31 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.
Note. Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
- (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and

Clause 32	Newcastle City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

- (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.

32 Community use of educational establishments

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

33 Ecologically sustainable development

Before granting consent for development for the purposes of a building, the consent authority must have regard to the principles of ecologically sustainable development as they relate to the proposed development based on a “whole of building” approach by considering:

- (a) greenhouse gas reduction, and
- (b) embodied energy in materials and building processes, and
- (c) building design and orientation, and
- (d) passive solar design and day lighting, and
- (e) natural ventilation, and
- (f) energy efficiency and energy conservation, and
- (g) water conservation and reuse, and
- (h) waste minimisation and recycling, and
- (i) reduction of car dependence, and
- (j) potential for adaptive reuse.

34 Public safety—licensed premises

- (1) Before granting consent for development involving the use of land as licensed premises, the consent authority must consider any impact of the proposed development on public safety.
- (2) In this clause:
licensed premises means a hotel within the meaning of the *Liquor Act 1982* or a registered club.

Newcastle City Centre Local Environmental Plan 2008

Clause 35

Miscellaneous provisions

Part 5

35 Serviced apartments

Development consent must not be granted to development for the purpose of the strata subdivision of a building or part of a building that is or has been used for serviced apartments, unless the consent authority is satisfied that the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* and the design principles of the *Residential Flat Design Code* (Department of Planning, September 2002) are achieved for the development as if it were residential flat development.

36 Design excellence

- (1) This clause applies to development involving:
 - (a) the construction of a new building, or
 - (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.
- (2) Development consent must not be granted for development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.
- (3) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors identified in *Newcastle Development Control Plan 2005*,
 - (d) how the proposed development addresses the following matters:
 - (i) heritage issues (including archaeology) and streetscape constraints,
 - (ii) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (iii) bulk, massing and modulation of buildings,
 - (iv) street frontage heights,

Clause 36 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (v) environmental impacts, such as sustainable design, overshadowing, wind and reflectivity,
 - (vi) the achievement of the principles of ecologically sustainable development,
 - (vii) pedestrian, cycle, vehicular, service and public transport access, circulation and requirements,
 - (viii) impact on, and any proposed improvements to, the public domain.
- (4) Development consent must not be granted to the following development to which this Plan applies unless an architectural design competition has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
 - (b) development in respect of a building that is, or will be, greater than 48 metres in height,
 - (c) development having a capital value of more than \$1,000,000 on a key site, being a site shown edged heavy black and distinctively coloured on the Key Sites Map,
 - (d) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant development consent to the construction of a new building, or external alterations to an existing building, that has a floor space ratio of up to 10 percent greater than that allowed by clause 23 or a height of up to 10 percent greater than that allowed by clause 21, but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
 - (b) the concurrence of the Director-General has been obtained to the development application.
- (7) In determining whether to provide his or her concurrence to the development application, the Director-General is to take into account the result of the architectural design competition (if any).
- (8) Nothing in subclause (6) restricts the operation of clause 28 to clause 21 or 23.

Newcastle City Centre Local Environmental Plan 2008

Clause 37

Miscellaneous provisions

Part 5

(9) In this clause:

architectural design competition means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

37 Ground floors of buildings within Zone B3 Commercial Core

(1) The ground floor of a building on land within Zone B3 Commercial Core is to be used for commercial activities, or retail activities, and have an active street frontage.

Note. For the meaning of **commercial activity**, see the Dictionary. For the meaning of **retail activity**, see subclause (3).

(2) However, subclause (1) does not apply in respect of any part of a ground floor:

- (a) used as a lobby for any commercial activities, or for any dwelling (as part of a residential flat building), serviced apartments or hotel above the ground floor, or
- (b) used as access for fire services, or
- (c) used for vehicular access or parking, or
- (d) facing a service lane.

(3) In this clause:

retail activity, in relation to the use of a building, means the use of the building for the purposes of retail premises, amusement centres, function centres, medical centres, registered clubs or a combination of such uses.

38 Wickham Redevelopment Area

(1) This clause applies to development applications with respect to a redevelopment site in the Wickham Redevelopment Area.

(2) Despite any other provisions of this Plan, the consent authority must not grant consent to a development application to which this clause applies unless it is satisfied that the development:

- (a) will not prejudice the orderly development of the redevelopment site as a whole, and
- (b) provides for all the public thoroughfares and public open space indicated by the Wickham Redevelopment Area Map as being on the land to which the application relates, and
- (c) provides for public access from a public place to those thoroughfares and that space on completion of the development.

(3) Despite subclause (2), development consent may be granted to a development application to which this clause applies if, in the opinion

Clause 39 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

of the consent authority, the development is of a minor nature and will not prejudice the orderly development of the redevelopment site as a whole.

(4) Business premises, office premises or retail premises in the Wickham Redevelopment Area are not to exceed 400 square metres.

(5) In this clause:

redevelopment site means one or more lots (whether or not under one ownership) identified as a redevelopment site on the Wickham Redevelopment Area Map.

Wickham Redevelopment Area means the land shown edged heavy black and marked "Wickham Redevelopment Area" on the Wickham Redevelopment Area Map.

39 Classified roads

(1) The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads (within the meaning of the *Roads Act 1993*), and
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emissions on development adjacent to classified roads.

(2) Consent must not be granted to the development of land that has a frontage to a classified road unless the consent authority is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the proposed development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the proposed development.

40 Development in proximity to a rail corridor

(1) The objective of this clause is to ensure that development for the purpose of residential accommodation, places of public worship,

Newcastle City Centre Local Environmental Plan 2008

Clause 41

Miscellaneous provisions

Part 5

hospitals, educational establishments or other noise sensitive buildings in the proximity of operating or proposed railways is not adversely affected by rail noise or vibration.

- (2) This clause applies to land comprising, or within 60 metres of, an operating railway line or land reserved for the construction of a railway line (referred in this clause as a *rail corridor*).
- (3) Development consent must not be granted to development:
- (a) that is within a rail corridor, and
 - (b) that the consent authority considers is, or is likely to be, adversely affected by rail noise or vibration,

unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

41 Development within the coastal zone

- (1) The objectives of this clause are as follows:
- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
 - (b) to implement the principles in the NSW Coastal Policy, and in particular to:
 - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
 - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
 - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
 - (iv) recognise and accommodate coastal processes and climate change, and
 - (v) protect amenity and scenic quality, and
 - (vi) protect and preserve rock platforms, beach environments and beach amenity, and
 - (vii) protect and preserve native coastal vegetation, and
 - (viii) protect and preserve the marine environment, and

Clause 41 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
 - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
 - (xi) protect Aboriginal cultural places, values and customs, and
 - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and
 - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
 - (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal waterbodies, and
 - (iv) native fauna and native flora, and their habitats,

Newcastle City Centre Local Environmental Plan 2008

Clause 42

Miscellaneous provisions

Part 5

- can be conserved, and
- (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
 - (i) on the proposed development, and
 - (ii) arising from the proposed development, and
 - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

42 Development below mean high water mark

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

43 Development on flood prone land

- (1) The objectives of this clause are:
 - (a) to maintain the existing flood regime and flow conveyance capacity, and
 - (b) to enable safe occupation of flood prone land, and
 - (c) to avoid significant adverse impacts upon flood behaviour, and
 - (d) to avoid significant adverse effects on the floodplain environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank or watercourse, and

Clause 44 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

-
- (e) to limit uses to those compatible with flow conveyance function and flood hazard.
- (2) Before determining an application for consent to carry out development on flood prone land, the consent authority must consider:
- (a) the impact of that development on:
- (i) flood behaviour, including the flood peak at any point upstream or downstream of the site of the development, and
 - (ii) the flow of floodwater on adjoining lands, and
 - (iii) the flood hazard or risk of flood damage to property and personnel, and
 - (iv) erosion, siltation or destruction of riparian vegetation in the area, and
 - (v) the water table on any adjoining land, and
 - (vi) river bank stability, and
 - (vii) the safety in time of flood of the site of the development and of any buildings or works intended to be erected or carried out, and
 - (viii) the hydraulic capacity of flood liable land in the locality, and
 - (ix) the provision of emergency equipment, personnel, welfare facilities or other resources that might be needed for an evacuation resulting from flooding, and
 - (x) the risk to life and personal safety of any emergency service and rescue personnel who might be involved in any such evacuation, and
 - (xi) the cumulative impact of further development on flooding, and
 - (xii) the potential for pollution during flooding, and
- (b) the impact that flooding will have on the proposed development, including the flood liability of access to the site of the proposed development, and
- (c) the provisions of any floodplain management plan adopted by the Council that applies to the land.

Note. Persons seeking information about whether particular land in the Newcastle city centre is liable to flood may apply to the Council for a Flood Information Certificate relating to the land.

44 Excavation and filling of land

- (1) The objective of this clause is to ensure that any land excavation or filling work will not have a detrimental impact on environmental

Newcastle City Centre Local Environmental Plan 2008

Clause 45

Miscellaneous provisions

Part 5

functions and processes, neighbouring uses, or cultural or heritage items and features.

- (2) Consent for excavation of land or the placing of fill may be granted only if the consent authority is satisfied that there would be no adverse impact on:
- (a) a waterbody, or
 - (b) private or public property, or
 - (c) ground water quality and resources, or
 - (d) stormwater drainage, or
 - (e) flooding.

45 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.

Clause 46	Newcastle City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 46 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
- (a) the clearing 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*,
 - (f) the carrying out of any work in relation to a tree that is exempt development.

46 Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Newcastle city centre, 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

Newcastle City Centre Local Environmental Plan 2008

Clause 46

Miscellaneous provisions

Part 5

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 consent authority is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

Clause 46	Newcastle City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

(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.

Note. Section 139 (1) of the *Heritage Act 1977* provides that a person must not disturb or excavate any land 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 unless the disturbance or excavation is carried out in accordance with an excavation permit.

The Council's *Newcastle Archaeological Management Plan* (February 1997) may be consulted to determine the level of disturbance of land, as defined in that plan.

Newcastle City Centre Local Environmental Plan 2008

Clause 46

Miscellaneous provisions

Part 5

(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 Part 1 of 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.

Clause 47 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

47 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.

48 Development for group homes

- (1) The objective of this clause is to facilitate the establishment of:
 - (a) permanent group homes in which disabled persons or socially disadvantaged persons may live in an ordinary residential household environment instead of an institutional environment, and
 - (b) transitional group homes that provide temporary accommodation for disabled persons or socially disadvantaged persons in an ordinary residential household environment instead of an institutional environment for such purposes as alcohol or drug rehabilitation and half-way rehabilitation for persons formerly living in institutions and refuges for men, women or young persons.
- (2) If development for the purpose of a dwelling house or a dwelling in a residential flat building may lawfully be carried out in accordance with this Plan, development for the purposes of a group home may, subject to this clause, be carried out.
- (3) Consent is required to carry out development for the purposes of a transitional group home.
- (4) Consent is required to carry out development for the purposes of a permanent group home that contains more than 5 bedrooms.
- (5) Consent is required to carry out development for the purposes of a permanent group home that contains 5 or less bedrooms and that is occupied by more residents (including any resident staff) than the number calculated by multiplying the number of bedrooms in that home by 2.
- (6) Consent may not be refused under this clause unless an assessment has been made of the need for the group home concerned.
- (7) Nothing in this clause requires consent to be obtained by the Department of Housing (or by a person acting jointly with the Department of Housing) to carry out development for the purposes of a transitional group home.

Newcastle City Centre Local Environmental Plan 2008

Clause 49

Miscellaneous provisions

Part 5

49 Crown development and public utilities

- (1) Nothing in this Plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:
 - (a) the carrying out of development of any description specified in subclauses (2)–(12), or
 - (b) the use of existing buildings of the Crown by the Crown.
- (2) The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:
 - (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
 - (b) the erection within the limits of a railway station of buildings for any purpose,
but excluding:
 - (c) the construction of new railways, railway stations and bridges over roads, and
 - (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and
 - (e) the formation or alteration of any means of access to a road, and
 - (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- (3) The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings:
 - (a) development of any description at or below the surface of the ground,
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the commencement of this Plan of any plant or other structures or erections required in connection with the station or substation,
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of

Clause 49 Newcastle City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

-
- substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housing of stone, concrete or brickworks,
- (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
 - (e) the erection of service reservoirs on land acquired or in the process of being acquired for the purpose before the commencement of this Plan, provided reasonable notice of the proposed erection is given to the consent authority,
 - (f) any other development, except:
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (ii) the formation or alteration of any means of access to a road.
- (4) The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (5) The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.

Newcastle City Centre Local Environmental Plan 2008

Clause 49

Miscellaneous provisions

Part 5

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- (6) The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (7) The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (8) The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:
- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (9) The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.
- (10) The carrying out of any forestry work by the Forestry Commission or Community Forest Authorities empowered under relevant Acts to undertake afforestation, the construction of roads, protection, cutting and marketing of timber, and other forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.

Clause 50	Newcastle City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

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- (11) The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purposes, and
 - (b) any development designed to change the use or purpose of any such reserve.
- (12) The carrying out or causing to be carried out by the consent authority, where engaged in flood mitigation works, or by a government department, of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Water Management Act 2000*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except:
- (a) the erection of buildings, and installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, and
 - (b) the formation or alteration of any means of access to a road.

50 Council development

- (1) The objectives of this clause are:
 - (a) to remove the need for the Council to obtain development consent for commonly undertaken civic works and facilities, and
 - (b) to enable the Council to carry out, with development consent, additional development in the interest of the public.
- (2) Development may be carried out by or on behalf of the Council without development consent on any land.
- (3) Subclause (2) does not apply to any of the following development:
 - (a) development on land that comprises, or on which there is:
 - (i) 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 that Act, or
 - (ii) a heritage item,
 - (b) the erection of a building of any class under the *Building Code of Australia* other than a class 10 building,
 - (c) development having a capital value of more than \$1,000,000,
 - (d) development for the purposes of ovals, tennis courts, grandstands, dressing sheds or the like,

Newcastle City Centre Local Environmental Plan 2008

Clause 50

Miscellaneous provisions

Part 5

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- (e) development for the purposes of car parks with more than 30 car parking spaces,
 - (f) development for the purposes of caravan parks,
 - (g) development for the purposes of depots.
- (4) Development referred to in subclause (3) may be carried out by or on behalf of the Council with consent on any land.
- (5) Nothing in this clause restricts the operation of clause 49 or Schedule 2.

Newcastle City Centre Local Environmental Plan 2008

Schedule 1 Additional permitted uses

Schedule 1 Additional permitted uses

(Clause 15)

[On the making of this Plan no matter was contained in this Schedule.]

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

Schedule 2 Exempt development

(Clause 18)

Note. The cutting down, topping, lopping, removal or destruction of trees to enable the carrying out of any of the development listed in this Schedule may require a permit or a development consent under clause 45 (Preservation of trees or vegetation) or clause 46 (Heritage conservation) of this Plan. See also entry for trees in this Schedule and in Schedule 3 (Complying development).

1 Access ramps for persons with disability

(1) **Siting**

Must be located wholly within the boundaries of the relevant lot.

(2) Must be at least 0.9 metre from any property boundary.

(3) Must be at least 1 metre from any sewer main.

(4) Must not encroach on any easement, pipeline or watercourse.

(5) **Dimensions**

Maximum height—1 metre above ground level (existing).

(6) Maximum grade—1:14.

(7) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

(8) If the land is in a heritage conservation area, the ramp must be sited behind the relevant building line.

2 Air conditioning units for dwellings

(1) **Siting**

Must be located outside the building in which the dwelling is situated.

(2) Must not be located on any facade of the building directly facing a public street or public space.

(3) Must not be located on the roof of the building unless hidden from view by a parapet or similar existing structure.

(4) **Noise**

Must not be audible inside a habitable room 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.

(5) At any other times, noise levels must not exceed 5dBA above ambient background noise level measured at the boundary of the relevant lot.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

(6) **Heritage**

Must not be located out on land that comprises or on which there is a heritage item.

3 Ancillary works external to a building—landscaping, driveways, paving, pathways, drainage, filling, excavation, erosion and sedimentation control works, pollution control works, or laying or repairing underground services

(1) **Works to be incidental or ancillary to use of land**

Works must be ordinarily incidental or ancillary to a lawful use of land.

(2) **Siting**

Filling or excavation must be located at least 0.9 metre from any property boundary.

(3) **Dimensions**

Maximum height of excavation and filling (if any part of the development involves both excavation and filling)—no more than 1 metre, as measured from the top of the fill to the base of so much of the excavation as is filled.

(4) Maximum height of excavation or filling (if any part of the development involves excavation or filling, but not excavation and fill)—no more than 1 metre, as measured from the top of the excavation or fill to its base.

(5) Maximum area of excavation or filling—50 square metres.

(6) **Heritage**

Must not be carried out on land that comprises or on which there is a heritage item.

(7) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

(8) **Surfaces impervious to rainwater**

Run off from impervious surfaces must comply with *Newcastle Development Control Plan 2005*.

(9) **Water pollution**

Adequate measures must be carried out to prevent sediment or other pollutants from entering drains or watercourses.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

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- (10) **Stormwater**
Works must not restrict flow of stormwater.
- (11) Overland stormwater flow must not be directed by works to dwellings, garages or adjoining properties.
- (12) Works must not restrict access to stormwater pipelines.
- 4 Animal shelters—aviaries, kennels, hutches, poultry sheds or similar buildings (other than horse stables or housing for swine) used to house domestic animals**
- (1) **General**
May only be erected and used in association with occupation of lawful dwelling.
- (2) Must not be used for commercial purposes.
- (3) **Siting**
Must be at least 0.9 metre from any property boundary.
- (4) Must not be located between the front of the dwelling and the street alignment.
- (5) Must be at least 1 metre from any sewer main.
- (6) Must not encroach on any easement, pipeline or watercourse.
- (7) Must be located so as not to be visible from any public road.
- (8) **Dimensions**
Maximum height—2.4 metres above ground level (existing).
- (9) Maximum area—10 square metres.
- 5 Awnings, canopies or weather protection structures (other than awnings, canopies or weather protection structures to which clause 28 applies)**
- (1) **General**
May only be erected and used in association with occupation of lawful dwelling.
- (2) The structure must not have enclosing walls.
- (3) **Siting**
Must not be located on any facade of the building facing a public street or public space (except in the case of awnings over windows and doorways where the awnings have a width of no more than 3 metres and a depth of no more than 1 metre).
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Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

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- (4) Must be located wholly within boundaries of the relevant lot.
 - (5) Must be located at least 0.9 metre from any property boundary.
 - (6) Must not be located between the dwelling and the street alignment.
 - (7) Must be located at least 1 metre from any sewer main.
 - (8) Must not encroach on any easement, pipeline or watercourse.
 - (9) **Dimensions**
Maximum height—3.6 metres above ground level (existing).
 - (10) Maximum area—10 square metres.
 - (11) **Heritage**
Must not be located on land that comprises or on which there is a heritage item.
 - (12) If the land is in a heritage conservation area, the structure must be sited at the rear of the dwelling with which it is associated.
 - (13) **Bush fire prone land**
Must not be located on land that is bush fire prone land.

6 Barbeques or similar structures used for outdoor cooking of food (other than barbeques to which clause 28 applies)

- (1) **Siting**
Must be located at least 0.9 metre from any property boundary.
- (2) Must not be located between the front of any building with which it is associated and the street alignment.
- (3) Must be located at least 1 metre from any sewer main.
- (4) Must not encroach on any easement, pipeline or watercourse.
- (5) **Dimensions**
Maximum height—1.8 metres above ground level (existing).
- (6) Maximum area—3 square metres.
- (7) **Smoke and odour**
Must be located so that generally no smoke or odour nuisance will be caused to adjoining properties.
- (8) **Heritage**
Must not be located on land that comprises a heritage item or be attached to anything (other than land) that is a heritage item.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(9) **Bush fire prone land**

Must not be located on land that is bush fire prone land.

7 Building alterations

(1) **Premises on which may not be carried out**

The alterations must not be carried out on any of the following premises:

- (a) premises used as a hairdressing or beauty salon,
- (b) premises on which skin penetration procedures (within the meaning of section 51 of the *Public Health Act 1991*) are carried out,
- (c) premises used for the sale of food, or the storage or handling of food for sale.

(2) **General**

May only be minor non-structural alterations, such as the following:

- (a) plastering or cement rendering,
- (b) attachment of fittings,
- (c) replacement of doors or windows,
- (d) replacement of ceiling, wall or floor linings or decorative work,
- (e) replacement of bathroom,
- (f) installation of kitchen or laundry fixtures,
- (g) carrying out of decorative work.

(3) **Impact on structure**

Wall, door or window openings must not be enlarged or reduced.

(4) Alterations must not affect the load bearing capacity of any load bearing component of the building.

(5) **Safety**

Any work involving asbestos cement must comply with the following WorkCover Authority guidelines:

- (a) *Your guide to working with asbestos: safety guidelines and requirements for work involving asbestos*, March 2003,
- (b) *Asbestos: guidelines for licensed asbestos removal contractors*.

(6) If paint removal is carried out in conjunction with the alterations, it must be carried out in a manner that prevents possible contamination of air or ground by lead or other toxic compounds.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

(7) **Heritage and bush fire prone land**

Must not be carried out on land that comprises or on which there is a heritage item.

(8) Alterations must not be to the exterior of a building in a heritage conservation area or on bush fire prone land.

(9) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

8 Change of use—retail premises, business premises, office premises, research facilities and technical services facilities

(1) **General**

The development is the different use of a building resulting from a change:

- (a) from one type of retail premises to another type of retail premises, or
- (b) from one type of business premises to another type of business premises, or
- (c) from business premises to office premises, or
- (d) from one type of office premises to another type of office premises, or
- (e) from office premises to business premises, or
- (f) from one type of research facility to another type of research facility.

(2) **Current use**

The current use of the building must be lawful and must not be an existing use (within the meaning of section 106 of the Act).

(3) **Proposed use**

The proposed use of the premises must not comprise any of the following:

- (a) premises for the sale of food or the storage or handling of food for sale,
- (b) hairdressing or beauty salons,
- (c) premises on which ear piercing, tattooing or other skin penetration procedures (within the meaning of section 51 of the *Public Health Act 1991*) are carried out,

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(d) premises used for the sale or display of publications or objects primarily concerned with sexual activity.

(4) **Floor area**

The proposed use must not involve any increase in floor area.

(5) **Operation**

Hours of operation must not extend beyond any existing approved hours.

Note. A current development consent applying to the premises may contain conditions on the permitted hours of operation.

(6) If the proposed use is as retail premises or office premises, the curtilage of the premises must not be used for storage or display purposes.

(7) The new use must be carried out in accordance with any conditions of a current development consent relating to the premises, including car parking, loading, vehicular movement, traffic generation, waste management, noise and site landscaping.

9 Decks (including around spa and swimming pools), verandahs, patios or similar structures that provide outdoor extensions to buildings containing dwellings

(1) **Siting**

Must not be located between the front of the existing building and the street alignment.

(2) Must be located wholly within the boundaries of the relevant lot.

(3) Must be at least 0.9 metre from any property boundary.

(4) Must be at least 1 metre from any sewer main.

(5) Must not encroach on any easement, pipeline or watercourse.

(6) **Dimensions**

Maximum roof height—3.6 metres above ground level (existing).

(7) Maximum floor level—1 metre above ground level (existing).

(8) Maximum area—20 square metres.

(9) **Heritage**

If the land is in a heritage conservation area, the structure must be sited so as not to be visible from a public road.

(10) **Bush fire prone land**

Must not be located on bush fire prone land.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

(11) **Surfaces impervious to rainwater**

Run off from impervious surfaces must comply with *Newcastle Development Control Plan 2005*.

10 Demolition of minor structures

(1) **General**

Only involves the demolition of:

- (a) a structure where the erection of such a structure is exempt development, or
- (b) a garage or carport.

(2) **Safety**

Must comply with Australian Standard AS 2601—2001, *Demolition of structures*.

(3) Any work involving asbestos cement must comply with the following WorkCover Authority guidelines:

- (a) *Your guide to working with asbestos: safety guidelines and requirements for work involving asbestos*, March 2003,
- (b) *Asbestos: guidelines for licensed asbestos removal contractors*.

(4) **Heritage**

Must not be carried out on land that comprises or on which there is a heritage item.

(5) **Flood prone land**

May be carried out on flood prone land.

11 Fences (other than fences for swimming pools to which the Swimming Pools Act 1992 applies and fencing referred to in clause 28)

(1) **Dimensions**

Maximum height—2 metres above ground level (existing) in the case of a fence constructed of timber, metal or lightweight materials along a rear boundary or a side boundary not forward of existing buildings.

(2) Maximum height—1.2 metres above ground level (existing) in any other case.

(3) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(4) If the land is in a heritage conservation area, the fence must be sited behind the building line of the dwelling house or other principal buildings of the property or properties concerned.

(5) **Stormwater**

Must not restrict or divert flow of stormwater or floodwaters.

12 Flagpoles (other than flagpoles referred to in clause 28)

(1) **General**

Must be used in association with the occupation of a dwelling.

(2) **Number**

Maximum of one flagpole per dwelling house or building (in the case of a building containing more than one dwelling).

(3) **Siting**

Located clear of any powerlines, or other overhead services, in accordance with the relevant utility supplier's requirements.

(4) Flags suspended from poles projecting over a public road must not project over the carriageway.

(5) **Dimensions**

Maximum height—6 metres above ground level (existing)

(6) Flags suspended from poles projecting over a public road must be suspended at least 3.6 metres above any footway.

(7) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

13 Home occupations

Note. See definition of *home occupation* in Dictionary. Among other things, the definition identifies things that a home occupation does not involve or include.

(1) **General**

Does not involve any of the following:

- (a) premises used as a hairdressing or beauty salon,
- (b) premises on which skin penetration procedures (within the meaning of section 51 of the *Public Health Act 1991*) are carried out,
- (c) premises used for the sale of food, or the storage or handling of food for sale.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

(2) **Signs**

Any notice, advertisement or sign exhibited on the dwelling at which the home occupation is carried out must not be illuminated and must be no more than 0.25 square metre in area.

Note. See definition of *home occupation* in Dictionary. That definition restricts the kind of notice, advertisement or sign that may be exhibited to one that is exhibited on the dwelling to indicate the name of the resident concerned and the occupation carried on at that dwelling.

14 Maintenance of heritage items or buildings, works, archaeological sites, trees or places within heritage conservation areas

Note. See definition of *maintenance* in Dictionary.

(1) **General**

The consent authority must have advised, in writing, that it is satisfied of the matters referred to in clause 46 (3) (a) of this Plan.

(2) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

(3) **Replacement or repair of cladding**

If the maintenance involves the replacement or repair of wall cladding or roof cladding, must comply with the requirements set out in this Schedule for that kind of development.

15 Pergolas or trellises (other than pergolas referred to in clause 28)

(1) **General**

Must be used in association with occupation of lawful dwelling.

(2) Must not have enclosing walls, but may be covered with shade cloth, include lattice or have open battens.

(3) **Siting**

Must not be located on any facade of the building facing a public street or public space.

(4) Must be located wholly within boundaries of the relevant lot.

(5) Must be located at least 0.9 metre from any property boundary.

(6) Must not be located between the dwelling house, or building containing dwellings, and the street alignment.

(7) Must be located at least 1 metre from any sewer main.

(8) Must not encroach on any easement, pipeline or watercourse.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(9) **Dimensions**

Maximum height—3.6 metres above ground level (existing).

(10) Maximum area—20 square metres.

(11) **Heritage**

If the land is in a heritage conservation area, pergola or trellis must be sited at the rear of the dwelling house, or building containing dwellings, with which it is associated.

(12) **Bush fire prone land**

Must be separated from any dwelling by at least 0.9 metre on bush fire prone land.

16 Public roads—construction of footpaths, footpath crossings, kerb crossings or stormwater drainage connections

Note. The carrying out of works on a public road requires consent of the appropriate roads authority (usually the Council) under the *Roads Act 1993*.

(1) **Damage**

Any damage caused to kerb, guttering or footways during carrying out of works must be rectified in accordance with any requirements of the appropriate roads authority under the *Roads Act 1993*.

(2) **Storage of construction materials on roads or public reserves**

No part of public road to be used for storage of construction materials without the authorisation of the appropriate roads authority under the *Roads Act 1993*.

(3) No part of public reserve to be used for storage of construction materials without the authorisation of the Council.

(4) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

(5) **Water pollution**

Adequate measures must be carried out to prevent sediment or other pollutants from entering drains or watercourses.

(6) **Stormwater**

Works must not restrict flow of stormwater.

(7) Overland stormwater flow must not be directed as a result of the works over land to buildings (such as garages and dwellings).

(8) Works must not restrict access to stormwater pipelines.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

17 Replacement or repair of wall cladding or roof cladding**(1) Materials**

Existing cladding must be replaced with similar materials that, where relevant, have the same fire rating properties as the existing cladding.

(2) Replacement wall cladding must not consist of concrete or masonry materials.**(3) Siting**

Wall cladding on dwelling house, or building containing dwellings, must be at least 0.9 metre from any property boundary.

(4) Wall cladding on garages, sheds or other outbuildings must be at least 0.6 metre from any property boundary.**(5)** Wall cladding on buildings, other than dwelling houses, buildings containing dwellings or outbuildings, must be at least 3 metres from any property boundary.**(6) Safety**

Any work involving asbestos cement must comply with the following WorkCover Authority guidelines:

(a) *Your guide to working with asbestos: safety guidelines and requirements for work involving asbestos*, March 2003,

(b) *Asbestos: guidelines for licensed asbestos removal contractors*.

(7) If paint removal is carried out in conjunction with the recladding, it must be carried out in a manner that prevents possible contamination of air or ground by lead or other toxic compounds.**(8) Heritage**

May be carried out on a heritage item, or on land that contains or comprises a heritage item, if the recladding or repair is for the maintenance of the heritage item.

(9) May not be carried out on a building within a heritage conservation area unless the recladding or repair is for the maintenance of the building in the heritage conservation area.**(10) Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

18 Retaining walls

(1) **Siting**

Must be located wholly within the boundaries of the relevant lot.

(2) Outer face must be at least 0.9 metre from any property boundary.

(3) Must be at least 1 metre from any sewer main.

(4) Must not encroach on any easement, pipeline or watercourse.

(5) **Dimensions**

Maximum aggregated height of cut or fill—1 metre at any given point.

(6) **Structural support**

Must not provide any structural support to any building.

(7) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

(8) **Stormwater**

Must not restrict or divert flow of stormwater or floodwaters.

19 Satellite dishes attached to an existing dwelling

(1) **Number**

Maximum of one satellite dish per dwelling house or other building containing dwellings.

(2) **Siting**

Must be located so as not to be visible from any public road.

(3) **Dimensions**

Maximum dish diameter—1 metre.

(4) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

20 Scaffolding or hoardings

(1) **Siting**

Must not encroach on any public land or public road.

(2) Any encroachment on an adjoining property must have been consented to, in writing, by the adjoining property owner.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

(3) **Heritage**

Must not be affixed to a heritage item (other than land comprising a heritage item) or damage a heritage item (including a heritage item comprising land).

21 Sheds, lawn lockers, gazebos, greenhouses, cubbyhouses or other buildings of a similar nature

(1) **General**

Must be used in association with occupation of a dwelling house or a dwelling.

(2) **Number**

Maximum of two such buildings per dwelling house or building containing dwelling houses.

(3) **Siting**

Must not be located between the front of the existing dwelling house, or building containing dwellings, and the street alignment.

(4) Must be located wholly within the boundaries of the relevant lot.

(5) Must be at least 0.6 metre from any property boundary.

(6) Must be at least 1 metre from any sewer main.

(7) Must not encroach on any easement, pipeline or watercourse.

(8) **Dimensions**

Maximum height—2.4 metres above ground level (existing).

(9) Maximum area—10 square metres.

(10) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

(11) **Bush fire prone land**

Must not be located on bush fire prone land.

(12) **Stormwater**

Must not restrict or divert flow of stormwater or floodwaters.

22 Signs—business identification

(1) **Number**

Maximum of one business identification sign per premises.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(2) **Siting**

No freestanding signs on a public road (including the footway of a public road).

(3) Signs may be suspended from a building over the footway of a public road and, in that case, must be located no closer than 3.6 metres from the edge of the kerb and at least 2.6 metres above ground level (existing).

(4) **Dimensions**

Maximum area—1 square metre.

(5) **Heritage**

Must not be located on land that comprises or on which there is a heritage item.

23 Signs erected by the Council or other public authorities

(1) **General**

Must comprise one or more of the following:

- (a) name plates,
- (b) street signs,
- (c) directional signs,
- (d) traffic signs,
- (e) community or Council information signs,
- (f) law enforcement signs.

(2) **Compliance with Development Control Plan**

Must comply with *Newcastle Development Control Plan 2005*.

(3) **Siting**

Traffic signs and street signs may be erected on or above a public road.

(4) Other signs may not be erected on a public road, but may be suspended over the footway of a public road and, in that case, must be located no closer than 3.6 metres from the edge of the kerb and at least 2.6 metres above ground level (existing).

24 Solar or wind energy generating works or water heaters used for the purpose of collecting solar or wind energy

(1) **Siting**

Must not be located between the front of a building and the street alignment.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

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- (2) Must not direct glare into the windows of buildings on other properties.
 - (3) Roof-mounted solar panels must be aligned parallel to the roof plane.
 - (4) **Dimensions**
Maximum height—2.7 metres above ground level (existing), unless mounted on an existing building or structure.
 - (5) **Capacity**
Maximum generating capacity of 5 kilowatts for a photovoltaic array.
 - (6) Maximum generating capacity of 2 kilowatts for wind turbines.
 - (7) **Noise control**
Noise must be free from any tonal component and noise levels must not exceed 5dBA above ambient background noise level measured at the boundary of the relevant lot.
 - (8) **Heritage**
Must not be located on land that comprises or on which there is a heritage item.

25 Spa pools

Note. Spa pools are subject to additional requirements under the *Swimming Pools Act 1992* as a kind of swimming pool.

Decks around swimming pools are dealt with elsewhere in this Schedule.

- (1) **General**
Must be prefabricated.
- (2) May only be installed and used in association with the occupation of a dwelling house or a building containing dwellings.
- (3) **Siting**
Inside edge of the pool must be at least 1 metre from side and rear property boundaries.
- (4) Must not encroach on any easement, pipeline (excluding any plumbing to or from the pool) or watercourse.
- (5) **Noise control**
Noise emissions from any filtration equipment or pumps must not be audible inside any dwelling on an adjoining lot 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 ambient background noise level measured at the boundary of the relevant lot.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

(6) **Notification to Council**

Council must be notified of the installation of the pool within 14 days of installation.

26 Trees—cutting down, topping, lopping or removal

(1) Must comply with the requirements set out in Schedule 1 to *Newcastle Local Environmental Plan 2003* that apply to the removal or pruning of trees.

(2) The tree must not be a heritage item.

27 Use of public land or a public road for an exhibition, meeting or community event

Note. In the case of Crown land or land vested in or under the control of the Council, permission must be sought from the council or other authority responsible for managing the land concerned before any development (including exempt development) is carried out on the land. Where the land is a public road, permission must be sought from the appropriate roads authority under the *Roads Act 1993* (usually the Council).

Under section 68 of the *Local Government Act 1993*, certain activities carried out on community land require approval from the local council.

(1) **Definition**

In this clause:

community event has the same meaning as in *State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

(2) **Plans of management**

Must be consistent with any plan of management under the *Local Government Act 1993* or the *Crown Lands Act 1989* that applies to the land.

(3) **Temporary structures**

The erection and use of any temporary structures for the purposes of the exhibition, meeting or event must be exempt development or complying development under *State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

(4) **Bush fire prone land**

The exhibition, meeting or event must not be carried out on bush fire prone land.

(5) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

Newcastle City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

28 Works and other development by public authorities on public land or public roads**(1) General**

Development must comprise one or more of the following:

- (a) landscaping or maintenance of trees or shrubs,
- (b) the installation or maintenance of artworks,
- (c) the installation or maintenance of waste or recycling bins,
- (d) the installation or maintenance of flagpoles,
- (e) the installation or maintenance of street furniture comprising bus or weather shelters, seating, telephone kiosks or other street furniture (excluding outdoor vending machines),
- (f) the installation or maintenance of structures in parks, including any of the following:
 - (i) park furniture (for example, seating, picnic tables, barbeque units and shelters),
 - (ii) awnings, pergolas, pedestrian bridges, staircases, steps and boardwalks,
- (g) the installation or maintenance of bollards by or on behalf of the Council,
- (h) the installation or maintenance of parking meters,
- (i) the installation or maintenance of cycle racks or cycle lockers,
- (j) the installation or maintenance of lighting (other than floodlighting of sporting or other venues), including street lights,
- (k) the installation or maintenance of playground equipment, goal posts, sight screens, fencing or other ancillary sporting structures on sporting or playing fields for use in the performance of sporting events (excluding grandstands, dressing sheds and other similar structures),
- (l) the installation or maintenance of footpaths, cycle ways, fire trails, walking tracks and other public pedestrian areas, kerbing, guttering and the like.

(2) Plans of management

Must be consistent with any plan of management under the *Local Government Act 1993* or the *Crown Lands Act 1989* that applies to the land.

(3) Safety

Must not obstruct vision of motorists or pedestrians when using or crossing roads.

Newcastle City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

-
- (4) To extent relevant, must incorporate appropriate public security measures, such as lighting and measures to assist visibility.
- (5) **Dimensions of bus or weather shelters**
Maximum height of bus or weather shelters—3 metres above ground level (existing).
- (6) **Access**
In the case of the installation of street furniture, park furniture, pedestrian bridges, boardwalks, parking meters, playground equipment, footpaths and walking tracks and other public pedestrian areas—provision is made, where reasonably practicable, for access by persons with a disability to use those items.

Newcastle City Centre Local Environmental Plan 2008

Schedule 3 Complying development

Schedule 3 Complying development

(Clause 19)

Part 1 Types of development

1 Change of use—from retail premises and warehouses

(1) General

The development is the different use of a building resulting from a change:

- (a) from one type of retail premises to another type of retail premises or to office premises, business premises or a technical services facility, or
- (b) from one type of warehouse or distribution centre to another type of warehouse or distribution centre.

(2) Current use

The current use of the building must be lawful and must not be an existing use (as defined in section 106 of the Act).

(3) Proposed development or use

The proposed development may include structural alterations, but only to the interior of the premises concerned.

(4)

The proposed premises must not comprise premises for the sale of food or the storage or handling of food for sale.

(5) Floor area

The proposed use must not involve any increase in floor area.

(6) Flood prone land

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

2 Dwelling houses and associated outbuildings

Note. Works ancillary to the development allowed by this clause, such as landscaping, the installation of driveways, paving, drainage, filling, excavation and the laying of underground services may be carried out as exempt development. See entry for ancillary works external to a building in Schedule 2.

Works on public roads, such as footpath crossings, kerb crossings or stormwater drainage connections for dwelling houses may also be carried out as exempt development. See entry for ancillary works on public roads in Schedule 2.

Newcastle City Centre Local Environmental Plan 2008

Complying development

Schedule 3

(1) **General**

The development involves one of the following:

- (a) the erection of a new dwelling house,
- (b) the alteration of or addition to an existing dwelling house,
- (c) the erection of a carport or garage ancillary to an existing dwelling house,
- (d) the erection of any other kind of outbuilding (other than a swimming pool) ancillary to an existing dwelling house,
- (e) demolition of a building of a kind referred to in paragraphs (a)–(d) prior to the carrying out of development referred to in any of those paragraphs.

(2) **Site area**

The development does not result in more than one dwelling on the relevant lot.

- (3) May only be carried out on land in Zone R3 that has gravity drainage to a public drainage system.

(4) **Siting**

Any external wall of the resulting building must be at least 0.9 metre from any side or rear property boundary.

- (5) The outside of any new eaves or gutter must be at least 0.675 metre from any side or rear property boundary.

- (6) Minimum setback from boundary of secondary street frontage on corner lot—2.5 metres.

- (7) Minimum setback from any other boundary with a street—5 metres.

- (8) Must not encroach on any easement, pipeline or watercourse.

(9) **Number of storeys—dwelling houses and outbuildings**

Any proposed dwelling house or outbuilding may only be a single storey building.

(10) **Additions**

Any addition to a dwelling house may only be to the ground floor of the dwelling house.

(11) **Streetscape**

Dwelling houses facing a public road must have at least a front door or window of a habitable room facing the road.

Newcastle City Centre Local Environmental Plan 2008

Schedule 3 Complying development

- (12) The combined width of all proposed garages or carports facing a public road must not be more than the lesser of:
- (a) 6 metres, or
 - (b) 40 per cent of the width of the frontage, whichever is the lesser.
- (13) **Bulk and scale**
Maximum height of underside of eaves—3.5 metres above ground level (existing).
- (14) Maximum roof pitch—30 degrees.
- (15) Any roof openings must be flush with the roof pitch.
- (16) Maximum floor area of any carport, garage or other outbuilding—40 square metres.
- (17) **Safety**
Any work involving asbestos cement must comply with the following WorkCover Authority guidelines:
- (a) *Your guide to working with asbestos: safety guidelines and requirements for work involving asbestos*, March 2003,
 - (b) *Asbestos: guidelines for licensed asbestos removal contractors*.
- (18) **Solar access**
The resulting building or structure must comply with Element 5.1.5 of *Newcastle Development Control Plan 2005*.
- (19) **Privacy**
If a new window in a habitable room allows an outlook to a window in a habitable room of an adjoining dwelling and the two windows are less than 9 metres apart:
- (a) the new window must be offset, from its edge to the edge of the window in the adjoining dwelling, by a distance of at least 0.5 metre, or
 - (b) the new window must have a sill height of at least 1.5 metres above floor level, or
 - (c) any part of the new window below 1.5 metres above floor level must have fixed obscure glazing.
- (20) **Car parking**
At least one car parking space must be provided for a new dwelling.

Newcastle City Centre Local Environmental Plan 2008

Complying development

Schedule 3

(21) **Landscaping**

The percentage of the area of the relevant lot comprising surfaces that are permeable to rainwater must be at least 20 per cent after the development is carried out.

(22) **Utilities**

The lot must be connected to a reticulated sewerage system operated by the Hunter Water Corporation.

(23) **Stormwater**

The flow of stormwater must not be restricted.

(24) The development must comply with applicable requirements in Element 4.5 of *Newcastle Development Control Plan 2005*.

(25) **Waste**

The development must comply with applicable requirements in Element 4.6 of *Newcastle Development Control Plan 2005*.

(26) **Bush fire prone land**

The development must not be carried out on bush fire prone land.

(27) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

(28) **Trees**

The development must not involve the removal of a tree identified as significant on any approved subdivision plan applying to the land.

Note. The cutting down, topping, lopping, removal or destruction of trees to enable the carrying out of any of the development listed in this Schedule may require a permit under clause 45 (Preservation of trees or vegetation), or a consent under clause 46 (Heritage conservation), of this Plan. See also entry for trees in Schedule 2 (Exempt development).

3 Strata subdivision

(1) **General**

The development comprises subdivision for the purpose of creating a strata scheme under the *Strata Schemes (Freehold Development) Act 1973* in relation to a building for which an occupation certificate has been issued.

(2) **Parking**

Parking spaces must be allocated to units in accordance with the terms of any existing development consent applying to the premises.

Newcastle City Centre Local Environmental Plan 2008

Schedule 3 Complying development

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- (3) Visitor parking required to be provided under the terms of any existing development consent applying to the premises must be located within common property.

(4) **Development lots**

The strata plan must not include any development lots, as defined in the *Strata Schemes (Freehold Development) Act 1973*.

4 Swimming pools ancillary to dwelling houses

Note. Swimming pools are subject to requirements under the *Swimming Pools Act 1992*.

Decks may be installed around swimming pools as exempt development. See Schedule 2.

(1) **Siting**

Inside edge of the pool must be at least 1 metre from side and rear property boundaries.

- (2) Must not be located between the dwelling house and the street alignment.

- (3) Must not encroach on any easement, pipeline or watercourse.

(4) **Bulk and scale**

Any coping or decking around the pool must be no more than 0.5 metre above or below ground level (existing) at any point.

(5) **Landscaping**

The percentage of the area of the relevant lot comprising surfaces that are permeable to rainwater must be at least 20 per cent following installation.

(6) **Drainage**

Must not impede existing site drainage, or restrict or divert stormwater or floodwaters.

- (7) Perimeter drainage around the pool must be designed so as to direct water away from adjoining properties.

- (8) Wastewater from the pool's filtration system must discharge to:

- (a) a reticulated sewerage system operated by the Hunter Water Corporation, or
- (b) in the case of land not serviced by that sewerage system—a waste treatment system that is the subject of an approval under Chapter 7 of the *Local Government Act 1993*.

Newcastle City Centre Local Environmental Plan 2008

Complying development

Schedule 3

(9) **Flood prone land**

May be carried out on flood prone land if relevant provisions of *Newcastle Development Control Plan 2005* are complied with.

5 Trees—cutting down, topping, lopping or removal

- (1) Must comply with the requirements set out in Schedule 2 (Complying development) of *Newcastle Local Environmental Plan 2003* that apply to the removal or pruning of trees.
- (2) Despite anything to the contrary in that environmental planning instrument, the tree may be a heritage item, but only if clause 46 (3) (a) of this Plan applies and the relevant development is the pruning of the tree.

Part 2 Complying development certificate conditions

Note. Conditions are also prescribed by the regulations made under the *Environmental Planning and Assessment Act 1979*.

Division 1 Change of use

6 Hours of operation

Hours of operation must not extend beyond any existing approved hours.

Note. A current development consent applying to the premises may contain conditions on the permitted hours of operation.

7 Conditions of another development consent

The new use must be carried out in accordance with any conditions of a current development consent relating to the premises, including car parking, loading, vehicular movement, traffic generation, waste management, noise and site landscaping.

8 Use of curtilage of premises

The curtilage of office premises must not be used for storage or display purposes.

Division 2 Building work, demolition and installation of swimming pools

9 Before work begins

The person having the benefit of the complying development certificate must give any occupier of adjoining premises at least 2 days before work begins.

Newcastle City Centre Local Environmental Plan 2008

Schedule 3 Complying development

Note. See also section 86 of the Act, which requires certain steps to be taken before the erection of a building begins. These include the principal certifying authority notifying the Council of his or her appointment.

10 Site management

- (1) Run-off and erosion controls must be implemented to prevent erosion, water pollution or the discharge of loose sediment on surrounding land by:
 - (a) diverting uncontaminated run-off around cleared or disturbed areas, and
 - (b) erecting and maintaining a silt fence to prevent debris escaping into drainage systems or waterways, and
 - (c) preventing tracking of sediment by vehicles onto roads, and
 - (d) stockpiling topsoil, excavated material, construction and landscaping supplies and debris within the site.

Note. Under the *Protection of the Environment Operations Act 1997* it is an offence to pollute any waters.

- (2) Any removal or disturbance of vegetation or topsoil must be confined to within 3 metres of the proposed building.

11 Hours of work

- (1) Demolition or construction work that is audible within adjoining premises may be carried out only between the following hours:
 - (a) Monday–Friday—7.00am and 6.00pm,
 - (b) Saturday—8.00am and 1.00pm.
- (2) No such work may be carried out at any time on a Sunday or a public holiday.

12 Public roads and reserves

- (1) Any damage caused to kerbs, guttering or footways during carrying out of work must be rectified in accordance with any requirements of the appropriate roads authority under the *Roads Act 1993*.
- (2) No part of any public road is to be used for storage of construction materials without the approval of the appropriate roads authority under the *Roads Act 1993*.
- (3) No part of any public reserve is to be used for storage of construction materials without the authorisation of the Council.

13 On-site toilet

A temporary on-site toilet or access to an existing toilet on site must be provided to the site before the commencement of work.

Newcastle City Centre Local Environmental Plan 2008

Complying development

Schedule 3

14 Asbestos

Any work involving asbestos cement must comply with the following WorkCover Authority guidelines:

- (a) *Your guide to working with asbestos: safety guidelines and requirements for work involving asbestos*, March 2003,
- (b) *Asbestos: guidelines for licensed asbestos removal contractors*.

15 Street trees

- (1) Prior to commencement of the development, all necessary steps must be taken to protect street trees (including their root systems) from disturbance or damage as a result of the development, including the installation of protective chain link fencing as required.
- (2) Any damage caused to street trees as a result of the development is to be rectified.

16 Additional provisions applying to demolition of a building

Any demolition of a building must be carried out in accordance with:

- (a) Australian Standard AS 2601—2001, *Demolition of structures*, and
- (b) any applicable requirements of the WorkCover Authority.

17 Additional provisions applying to swimming pools

- (1) Noise emissions from any filtration equipment or pumps must not be audible inside any dwelling on an adjoining lot 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 ambient background noise level measured at the boundary of the relevant lot.
- (2) Any relevant provisions of the *Swimming Pools Act 1992* and regulations under that Act must be complied with.

Division 3 Removal etc of trees

18 Site management

- (1) Run-off and erosion controls must be implemented to prevent erosion, water pollution or the discharge of loose sediment on surrounding land by:
 - (a) diverting uncontaminated run-off around cleared or disturbed areas, and
 - (b) erecting and maintaining a silt fence to prevent debris escaping into drainage systems or waterways, and

Newcastle City Centre Local Environmental Plan 2008

Schedule 3 Complying development

- (c) preventing tracking of sediment by vehicles onto roads, and
- (d) stockpiling topsoil, excavated material, construction and landscaping supplies and debris within the site.

Note. Under the *Protection of the Environment Operations Act 1997* it is an offence to pollute any waters.

- (2) Any removal or disturbance of vegetation (other than the tree) or topsoil is to be minimised.

19 Hours of work

- (1) Work that is audible within adjoining premises may be carried out only between the following hours:
 - (a) Monday–Friday—7.00am and 6.00pm,
 - (b) Saturday—8.00am and 1.00pm.
- (2) No such work may be carried out at any time on a Sunday or a public holiday.

20 Public roads and reserves

- (1) Any damage caused to kerbs, guttering or footways during carrying out of works must be rectified in accordance with any requirements of the appropriate roads authority under the *Roads Act 1993*.
- (2) No part of any public road is to be used for storage of construction materials without the approval of the appropriate roads authority under the *Roads Act 1993*.
- (3) No part of any public reserve is to be used for storage of construction materials without the authorisation of the Council.

21 Replacement trees

Where practicable, a suitable replacement tree is to be planted on the property concerned in accordance with Element 4.10 of *Newcastle Development Control Plan 2005*.

22 Safe work practices

The WorkCover Authority's *Code of Practice: Amenity tree industry* (ISBN 0 7310 8738 0, August 1998) must be complied with when carrying out work.

Newcastle City Centre Local Environmental Plan 2008

Complying development

Schedule 3

23 Disposal of trees

Trees and stumps are to be:

- (a) disposed of at a waste management facility, or
- (b) recycled, or
- (c) disposed of as fire wood.

Newcastle City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 31)

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

Column 1	Column 2
Locality	Description

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description

Newcastle City Centre Local Environmental Plan 2008

Environmental heritage

Schedule 5

Schedule 5 Environmental heritage

(Clause 46)

Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance
Cooks Hill	Former Signalman's Cottage	12 Laman Street	Lot 11, DP 95189; Lot 12, DP 150135	Local
Cooks Hill	Former Railway Overpass	12 Laman Street	Lot 11, DP 95189	Local
Cooks Hill	St Andrews Presbyterian Church	12 Laman Street	Lot 10, DP 95189	State
Cooks Hill	Baptist Tabernacle	25 Laman Street	Pt Lot 19, Sec G, DP 978941	State
Cooks Hill	Fire Station	44 Union Street	Lot 1, DP 77102	Local
Newcastle	Newcastle Post Office Annex	5 Bolton Street	Lot 1, DP 430746	State
Newcastle	NZ Insurance Building	12 Bolton Street	SP 51662	Local
Newcastle	Union Trustee Building	18 Bolton Street	Lot 42, DP 542509	Local
Newcastle	Former Eldon Chambers	24 Bolton Street	Lot 2, DP 136640	Local
Newcastle	Court Chambers	40 Bolton Street	Lot 71, DP 541527	Local
Newcastle	Steels Garage (Former Olympic Hall)	47 Bolton Street	Lot 1, DP 74337	Local
Newcastle	Former David Cohen & Co Warehouse	50 Bolton Street	Lot 1, DP 601267	State
Newcastle	Toll Cottage (Former Rose Cottage)	51 Bolton Street	Lot 394, DP 747410	State
Newcastle	Former Newcastle East Public School	58 Bolton Street	Lot 1, DP 709455	Local

Page 81

Newcastle City Centre Local Environmental Plan 2008

Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance
Newcastle	Customs House	1 Bond Street	Lot 1, DP 533984	State
Newcastle	Stanton Catchlove Bond Store	11 Bond Street	Lot 1, DP 619238	Local
Newcastle	Macquarie House	8 Church Street	Lot 10, DP 24188	State
Newcastle	Courthouse	9 Church Street	Pt DP 755247	State
Newcastle	Buchanan Terrace and footpath	10 Church Street	Lot 9, DP 24188	State
Newcastle	Buchanan Terrace and footpath	12 Church Street	Lot 8, DP 24188	State
Newcastle	Buchanan Terrace and footpath	14 Church Street	Lot 7, DP 24188	State
Newcastle	Buchanan Terrace and footpath	16 Church Street	Lot 6, DP 24188	State
Newcastle	Buchanan Terrace and footpath	18 Church Street	Lot 5, DP 24188	State
Newcastle	Buchanan Terrace and footpath	20 Church Street	Lot 4, DP 24188	State
Newcastle	Buchanan Terrace and footpath	22 Church Street	Lot 3, DP 24188	State
Newcastle	Buchanan Terrace and footpath	24 Church Street	Lot 2, DP 24188	State
Newcastle	Buchanan Terrace and footpath	26 Church Street	Lot 1, DP 24188	State
Newcastle	Buchanan Terrace and footpath	28 Church Street	Lot B, DP 420090	State
Newcastle	Buchanan Terrace and footpath	30 Church Street	Lot A, DP 420090	State
Newcastle	Grand Hotel	32 Church Street	Lot 32, DP 343633	State
Newcastle	Dwelling	46 Church Street	Lot A, DP 331216	Local
Newcastle	Nos 1 and 2 Lee Wharf Buildings A and C	9 Honeysuckle Drive	Pt Lot 51, DP 1036132	State
Newcastle	Civic Railway Workshops Group	9 Honeysuckle Drive	Pt Lot 51, DP 1036132	State

Newcastle City Centre Local Environmental Plan 2008

Environmental heritage

Schedule 5

Suburb	Item name	Address	Property description	Significance
		10A Merewether Street	Lot 50, DP 1036132	State
Newcastle	T & G Mutual Life Assurance Building	45 Hunter Street	Lot 6, DP 75385	State
Newcastle	Sun Building (Facade only)	48–56 Hunter Street	Lot 4, DP 76454	Local
Newcastle	AMP Building	55 Hunter Street	SP 53607	State
Newcastle	Former CBA Bank	67 Hunter Street	SP 65329	Local
Newcastle	Former National Bank	68 Hunter Street	Lot 1, DP 66499	Local
Newcastle	National Australia Bank	73 Hunter Street	Lot A, DP 60510	State
Newcastle	Former Department of Public Works Office	74 Hunter Street	Lot 3224, DP 729951	State
Newcastle	Former Emporium Building	87–89 Hunter Street	Lots 1 and 2, DP 152682	Local
Newcastle	Former Police Station	90 Hunter Street	Lot 3223, DP 729951	State
Newcastle	Post Office and War Memorial Statue	96–100 Hunter Street	Lot 103, DP 758769	State
Newcastle	ANZ Bank	102 Hunter Street	Lot 1, DP 131741	State
Newcastle	CML Building	108–112 Hunter Street	Lot 1, DP 331485	State
Newcastle	Centennial Hotel	114 Hunter Street	Lots 1 and 2, DP 745997	Local
Newcastle	Municipal Building	121 Hunter Street	Lot 31, DP 864001	Local
Newcastle	Municipal Building	122–132 Hunter Street	Lots A–F, DP 80153	Local
Newcastle	Former Hotel Hunter	154 Hunter Street	Lot 2, DP 600274	Local

Newcastle City Centre Local Environmental Plan 2008

Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance
Newcastle	Municipal Building	164–170 Hunter Street	Lot 1, DP 600274	Local
Newcastle	David Jones (Commercial building)	169–185 Hunter Street	Lot 1, DP 749729	Local
Newcastle	Former A A Dangar Building	176 Hunter Street	Lot 1, DP 110615	Local
Newcastle	Former School of Arts	182 Hunter Street	Lot 212, DP 660080	Local
Newcastle	Crown & Anchor Hotel	189 Hunter Street	Lot 1, DP 79759	Local
Newcastle	Former Johns Building	200–212 Hunter Street	Lot 1, DP 228072	Local
Newcastle	Commonwealth Bank Building	220 Hunter Street	Lot 1, DP 78033	Local
Newcastle	Former ANZ Bank	227 Hunter Street	Lot 1, DP 770692	Local
Newcastle	Lucky Country Hotel	237 Hunter Street	Lots 1 and 2, DP 331728	Local
Newcastle	Former Tramway Substation	342 Hunter Street	SP 21188	Local
Newcastle	Former Frederick Ash Building	357 Hunter Street	Lot 2, DP 1010675	Local
Newcastle	Civic Theatre	373 Hunter Street	Pt Lot 1, DP 225689	State
Newcastle	Former Emporium Building	517–529 Hunter Street	Lot 801, DP 562199	Local
Newcastle	Former Police Station	558 Hunter Street	Lot 3195, DP 705450	Local
Newcastle	Wheeler House	8 King Street	SP 65842	Local
Newcastle	Ireland Bond Store	123 King Street	Lot 1, DP 64187	Local
Newcastle	Albert Terraces	164–176 King Street	Lots 1–5, DP 263453	Local
Newcastle	The Moorings (Residential units)	199 King Street	SP 2831	Local
Newcastle	Civic Park	201 King Street	Lot 300, DP 604071	Local

Newcastle City Centre Local Environmental Plan 2008

Environmental heritage

Schedule 5

Suburb	Item name	Address	Property description	Significance
Newcastle	Church Walk Park	203 King Street	Lot 27, DP 150538	Local
Newcastle	City Hall and lamp posts	290 King Street	Pt Lot 1, DP 225689	State
Newcastle	Christie Place (including fountain)	292 King Street	Pt Lot 1, DP 225689	Local
Newcastle	Nesca House	300 King Street	Lot 2, DP 225689	State
Newcastle	Newcastle War Memorial Cultural Centre	1 Laman Street	Lots 18 and 19, Sec G, DP 978941	State
Newcastle	Terrace House	49 Newcomen Street	Lot 61, DP 569796	Local
Newcastle	Newcomen House (Residence)	51 Newcomen Street	Lot 1, DP 794738	Local
Newcastle	Newcastle Hospital North Wing	21 Pacific Street	Lot 22, DP 880526	State
Newcastle	Former Nurses Home	30 Pacific Street	Lot 100, DP 883220	Local
Newcastle	Former Victoria Theatre	8–10 Perkins Street	Lot 1, DP 1005699	State
Newcastle	Former Superintendent's Residence	88 Scott Street	Lot 3211, DP 722246	State
Newcastle	Former Coutts Sailor Home	88 Scott Street (facing Bond Street)	Lot 3211, DP 722246	State
Newcastle	Great Northern Hotel	89 Scott Street	Lot 100, DP834251	State
Newcastle	Former Residence	90 Scott Street	Lot 1, DP 123946	Local
Newcastle	Convict Lumber Yard-Stockade Site	92 Scott Street	Pt Lot 2, DP 706760; Lot 3214, DP 729000	State
Newcastle	Station Master's Residence	92 Scott Street	Pt Lot 2, DP 706760	Local

Newcastle City Centre Local Environmental Plan 2008

Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance
Newcastle	Former Station Master's Residence	92 Scott Street	Pt Lot 2, DP 706760	State
Newcastle	Former Railway Pay Office	92 Scott Street (facing Bond Street)	Pt Lot 2, DP 706760	State
Newcastle	Newcastle Railway Station	110 Scott Street	Lot 8, DP 720672	State
Newcastle	Centennial Hotel	127 Scott and 114 Hunter Streets	Lots 1 and 2, DP 745997	Local
Newcastle	Air Force Club (Wood Chambers)	129 Scott Street	Lot 1, DP 996093	State
Newcastle	Rundles Buildings (Former R Hall & Sons)	161 Scott Street	SP 57218	Local
Newcastle	Former Beberfaulds Warehouse	175 Scott Street	SP 35541; SP 37388	Local
Newcastle	Howard Smith Chambers	14 Watt Street	SP 16024	Local
Newcastle	Manufacturers House	35-37 Watt Street	Lot 1, DP 342578	State
Newcastle	St Phillips Church	48 Watt Street	Lot 38, DP 51452	Local
Newcastle	Watt Street Terrace	50 Watt Street	Lot 12, DP 24188	State
Newcastle	Watt Street Terrace	52 Watt Street	Lot 13, DP 24188	State
Newcastle	Watt Street Terrace	54 Watt Street	Lot 14, DP 24188	State
Newcastle	United Services Club	55 Watt Street	Lot 2, DP 609103	Local
Newcastle	Watt Street Terrace	56 Watt Street	Lot 15, DP 24188	State
Newcastle	Watt Street Terrace	58 Watt Street	Lot 16, DP 24188	State
Newcastle	Watt Street Terrace	60 Watt Street	Lot 17, DP 24188	State
Newcastle	Watt Street Terrace	62 Watt Street	Lot 18, DP 24188	State
Newcastle	Former Military Hospital	72 Watt Street	Lot 1, DP 1069317	State

Newcastle City Centre Local Environmental Plan 2008

Environmental heritage

Schedule 5

Suburb	Item name	Address	Property description	Significance
Newcastle	Former Barracks	72 Watt Street	Lot 1, DP 1069317	State
Newcastle	Fletcher Monument	75 Watt Street	Ms 1135 Md	Local
Newcastle	Argyle House	311 Wharf Road	Lot 190, DP 541370	State
Newcastle	Retaining walls with sandstone steps	Wolfe Street		Local
Newcastle East	Nobbys Lighthouse, headland and breakwater	Nobbys Road	Pt Lot 2613, DP 755247; Pt Lot 105, DP 1104195	State
Newcastle East	Fort Scratchley group (Buildings and underground forts)	31 Nobbys Road	Lot 1, DP 407886	State
Newcastle East	Nobbys Beach Pavilion	35 Nobbys Road	Lot 7005 and Pt Lot 7006, DP 1057119	Local
Newcastle East	Boatmans Terrace group (Residences)	36–66 Nobbys Road	Lot 1, DP 617504	Local
Newcastle East	Column from original Courthouse	Parnell Place	Pt N 137–844 R	Local
Newcastle East	Coal Memorial	Parnell Place	Pt N 137–844 R	Local
Newcastle East	The Retreat (Residence)	31 Parnell Place	Lot 4, DP 4296	Local
Newcastle East	The Carlton (Residential units)	19 Scott Street	SP 39163	Local
Newcastle East	Former Newcastle East Police Station	63 Scott Street	Lot 328, DP 758769	State
Newcastle East	Soldiers Baths	Shortland Esplanade	Lot 7060, DP 1118739	State
Newcastle East	Ocean Baths	30 Shortland Esplanade	Pt Ms 1133 Md	Local
Newcastle East	Stevenson Place Precinct (Terraces)	1–55 Stevenson Place		Local

Newcastle City Centre Local Environmental Plan 2008

Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance
Newcastle East	Former John Bull Warehouse	28 Stevenson Place	SP 48754	Local
Newcastle East	Former Earp Gillam Bond Store	16 Telford Street	SP 44807	State
Newcastle East	Tyrrell House (Facade only)	49 Telford Street	SP 20749	Local
Newcastle East	Stone Boat Harbour (Relic)	48 Wharf Road	Pt Lot 52, DP 791037	State
Newcastle West	Former City Bank	553–557 Hunter Street	Lots A and B, DP 162398	Local
Newcastle West	Former CBC Bank	559 Hunter Street	Lot 941, DP 997920	Local
Newcastle West	Newcastle Technical College	590–608 Hunter Street	Lots 1 and 2, DP 852552	State
Newcastle West	Hunter Water Board Building	599 Hunter Street	Lot 1, DP 595677	Local
Newcastle West	Theatre Royale	669 Hunter Street	Lot 111, DP 75158	State
Newcastle West	Palais Royale	684 Hunter Street	Lot 11, DP 872463	Local
Newcastle West	Bellevue Hotel	738 Hunter Street	Lot 8, DP 1008628	Local
Newcastle West	Bank Corner (Former Bank of NSW)	744 Hunter Street	Lot 1, DP 75008; Lot 1, DP 196241	Local
Newcastle West	Regional Museum	787 Hunter Street	Lot 21, DP 774313	State
Newcastle West	St Josephs Convent and Sacred Heart Church and School	841 Hunter Street	Lot 1, DP 95139; Lots 38 and 39, DP 95306; Lot 1, DP 129569; Lot 2, DP 787816	Local
Newcastle West	Former Newcastle Co-operative Store	854 Hunter Street	Lot 1, DP 82517	Local
Newcastle West	Dairy Farmers Building	924 Hunter Street	Lot 2, DP 445736	Local
Newcastle West	Miss Porter's Residence	434 King Street	Lot 441, DP 998073	State

Newcastle City Centre Local Environmental Plan 2008

Environmental heritage

Schedule 5

Suburb	Item name	Address	Property description	Significance
Newcastle West	Army Drill Hall	498 King Street	Lot 1, DP 222839	Local
Newcastle West	Birdwood Park	502 King Street	Pt Lots 112–118, DP 95185	Local
Newcastle West	Hamilton College of TAFE	91 Parry Street	Lot 1, DP 584429	Local
Newcastle West	Former Gasworks Office	18 Steel Street	Lot 1, DP 797175	Local
The Hill	Dr Richard Harris's Residence	81 King Street	Lot 1, DP 36886	Local
Wickham	Former Wickham Town Hall	12 Albert Street	Lot 2, DP 538523	Local
Wickham	Former Council Chambers	18A Albert Street	Lot 3175, DP 755247	Local
Wickham	Hawkins Oval	22 Albert Street	Ms 4983 Md; Pt Lot 152, DP 755247; Pt Lot 165 and Pt Lot 166, DP 755247	Local
Wickham	Hawkins Oval Memorial	22 Albert Street	Ms 4983 Md; Pt Lot 152, DP 755247	Local
Wickham	Former Police Lock-up	25 Albert Street	Lot 12, DP 1005516	Local
Wickham	Dalgety Warehouse	49 Annie Street	Lot 2, DP 346352	Local
Wickham	R A Ritchie & Sons & Hudson Bros Engineering (Former industrial site)	20 Greenway Street	SP 31620	Local
Wickham	Wickham Railway Station	Hannell Street	Railway land	Local
Wickham	Signal Box—Wickham	Hannell Street	Railway land	Local
Wickham	Former School of Arts	22A Hannell Street	Lot 1, DP 1009228	Local
Wickham	Wickham Public School	54 Hannell Street	Lot 1, DP 850430	Local

Newcastle City Centre Local Environmental Plan 2008

Schedule 5 Environmental heritage

Suburb	Item name	Address	Property description	Significance
Wickham	Former Infants School	64 Hannell Street	Lot 3203, DP 723289	Local
Wickham	Albion Hotel	72 Hannell Street	Lot 1, DP 76135	Local
Wickham	Stella Maris Seamans Mission	102 Hannell Street	Lot A, DP 386601	Local
Wickham	The Salvation Army Men's Hostel	116–120 Hannell Street	Lot 1, DP 217399; Lot 1, DP 90935	Local
Wickham	Lass O'Gowrie Hotel	14 Railway Street	Lot 1, DP 774645	Local

Part 2 Heritage conservation areas

Description	Identification on Heritage Map
Cooks Hill	Shown by a heavy black broken line and marked "Cooks Hill Heritage Conservation Area"
Newcastle City Centre	Shown by a heavy black broken line and marked "Newcastle City Centre Heritage Conservation Area"
Newcastle East	Shown by a heavy black broken line and marked "Newcastle East Heritage Conservation Area"
The Hill	Shown by a heavy black broken line and marked "The Hill Heritage Conservation Area"

Newcastle City Centre Local Environmental Plan 2008

Dictionary

Dictionary

(Clause 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.

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.

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.

archaeological site means the site (as shown on the Heritage Map or listed in Part 1 of Schedule 5) of one or more relics.

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 for a maximum of 8 guests 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.

biodiversity means biological diversity.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

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 serviced apartment, seniors housing or hotel 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

Newcastle City Centre Local Environmental Plan 2008

Dictionary

-
- (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 display of bulky goods.

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

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

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

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

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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

cemetery means a building or place for the interment of deceased persons or their ashes, and includes a funeral chapel or crematorium.

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) home-based child care, 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.

City Centre Development Control Plan 2006 means *Newcastle City Centre Development Control Plan 2006* adopted by the Council, as in force at the commencement of this Plan.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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

Note. The term is defined as follows:

classified road means any of the following:

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

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

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

Note. The term is defined as follows:

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

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing 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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

commercial activity, in relation to the use of a building, means the use of the building for the purposes of office premises, retail premises, business premises, hotel accommodation (but not hotel accommodation that is subdivided under a strata scheme) or other like uses or a combination of such uses.

community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community.

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

Council means the Newcastle City Council.

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

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) lands within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

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

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.

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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

educational and cultural activity, in relation to the use of a building, means the use of the building for the purposes of a school, tertiary institution, community facility, hostel or boarding house for students, theatre, cinema, music hall, concert hall or lecture theatre or a combination of any such uses.

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.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall, amusement centre and the like.

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.

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*.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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

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

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

Note. The term is defined as follows:

Definition of “fish”

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

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

flood prone land means land that is at or below 0.5 metres above the 1 percent Annual Exceedance Probability flood level.

floor space ratio of buildings on a site is the ratio of the total floor space area of all buildings within the site to the site area.

Floor Space Ratio Map means the Newcastle City Centre 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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

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 business 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.

gross floor area means the sum of the floor area of each storey 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, 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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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

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

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 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.

Height of Buildings Map means the Newcastle City Centre 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.

heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on the Heritage Map, as referred to in Part 2 of Schedule 5 (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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 specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which is described in Part 1 of Schedule 5.

Heritage Map means the Newcastle City Centre Local Environmental Plan 2008 Heritage Map.

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

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) 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, or
- (f) the use of more than 25 square metres of floor area to carry on the business, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

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),

Newcastle City Centre Local Environmental Plan 2008

Dictionary

-
- (h) chapels,
 - (i) hospices,
 - (j) mortuaries.

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

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

hotel accommodation means a building (whether or not a hotel within the meaning of the *Liquor Act 1982*) that provides tourist and visitor accommodation consisting of rooms or self-contained suites, but does not include backpackers' accommodation, a boarding house or bed and breakfast accommodation.

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.

Key Sites Map means the Newcastle City Centre Local Environmental Plan 2008 Key Sites Map.

kiosk means retail premises with a gross floor area not exceeding 20 square metres and that is used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

Land Application Map means the Newcastle City Centre Local Environmental Plan 2008 Land Application Map.

Land Reservation Acquisition Map means the Newcastle City Centre Local Environmental Plan 2008 Land Reservation Acquisition Map.

Land Use Table means the Table at the end of Part 2 of this Plan.

Land Zoning Map means the Newcastle City Centre Local Environmental Plan 2008 Land Zoning Map.

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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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

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

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

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

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

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

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

mezzanine means an intermediate floor within a room.

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.

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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

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.

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 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, newsagency or dry cleaning, but does not include restricted premises.

Newcastle Development Control Plan 2005 means *Newcastle Development Control Plan 2005* adopted by the Council, as in force at the commencement of this Plan.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

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.

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 a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies.

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

Newcastle City Centre Local Environmental Plan 2008

Dictionary

sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

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 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 included a courthouse or a police station.

public authority has the same meaning as in the Act.

public hall has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public hall means any building or part of a building that is used or intended to be used for the purpose of providing public entertainment or conducting public meetings.

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,

Newcastle City Centre Local Environmental Plan 2008

Dictionary

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

recreation 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).

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 Newcastle 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.

remove, in relation to a tree, means cut down, fell, destroy, kill, transplant or uproot a tree.

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:

Newcastle City Centre Local Environmental Plan 2008

Dictionary

-
- (a) meals and cleaning services, and
 - (b) personal care or nursing care, or both, and
 - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

residential flat building means a building containing 3 or more dwellings.

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 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 accommodation, a pub, home occupation (sex services) or sex services premises.

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).

roadside stall means a place or temporary structure with a gross floor area not exceeding 8 square metres 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.

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

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.

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.

sex services means sexual acts or sexual services in exchange for payment.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

sex services premises means a brothel, but does not include home occupation (sex services).

shop top housing means one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

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.

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.

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.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the Act.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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

Newcastle City Centre Local Environmental Plan 2008

Dictionary

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

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 a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies.

turf farming means the commercial cultivation of turf for sale and the removal of turf for that purpose.

utility installation means a building, work or place used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

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 land fill operation means use of land for the purpose of disposing of industrial, trade or domestic waste on that land.

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.

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

waterbody (artificial) 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.

Newcastle City Centre Local Environmental Plan 2008

Dictionary

waterbody (natural) 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.

Wickham Redevelopment Area Map means the Newcastle City Centre Local Environmental Plan 2008 Wickham Redevelopment Area Map.



New South Wales

Penrith City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S06/00902/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Penrith City Centre Local Environmental Plan 2008

Contents

	Page
Part 1 Preliminary	
1 Name of Plan	4
2 Aims of Plan	4
3 Land to which Plan applies	5
4 Definitions	5
5 Notes	5
6 Consent authority	5
7 Maps	5
8 Repeal of other local planning instruments applying to land	6
9 Suspension of covenants, agreements and instruments	6
10 Application of SEPPs and REPs	7
Part 2 Permitted or prohibited development	
11 Land use zones	8
12 Zoning of land to which Plan applies	8
13 Zone objectives and land use table	8
14 Unzoned land	9
15 Additional permitted uses for particular land	9
16 Subdivision—consent requirements	9
17 Temporary use of land	10
Land Use Table	
Part 3 Exempt and complying development	
18 Exempt development	16
19 Complying development	17
20 Environmentally sensitive areas excluded	18
Part 4 Principal development standards	
21 Height of buildings	20
22 Architectural roof features	20
23 Sun access	21
24 Floor space ratio	21
25 Minimum building street frontage	21
26 Design excellence	22
27 Car parking	23
28 Ground floor development within Zones B3 and B4	24
29 Building separation	25

Penrith City Centre Local Environmental Plan 2008

Contents

		Page
	30 Ecologically sustainable development	25
	31 Serviced apartments	26
	32 Exceptions to development standards	26
Part 5	Miscellaneous provisions	
	33 Land acquisition within certain zones	28
	34 Development on proposed classified road	28
	35 Classification and reclassification of public land	29
	36 Community use of educational establishments	30
	37 Classified roads	30
	38 Development in proximity to a rail corridor	31
	39 Preservation of trees or vegetation	31
	40 Heritage conservation	32
	41 Bush fire hazard reduction	36
	42 Development for group homes	36
	43 Crown development and public utilities	37
Part 6	Local provisions	
	44 Location of sex services premises and restricted premises	41
Schedule 1	Additional permitted uses	42
Schedule 2	Exempt development	43
Schedule 3	Complying development	53
Schedule 4	Classification and reclassification of public land	58
Schedule 5	Environmental Heritage	65
Dictionary		67

Clause 1 Penrith City Centre Local Environmental Plan 2008

Part 1 Preliminary

Penrith City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Plan

This Plan is *Penrith City Centre Local Environmental Plan 2008*.

2 Aims of Plan

The aims of this Plan are as follows:

- (a) to strengthen the regional position of the Penrith city centre as a multifunctional and innovative centre that encourages employment and economic growth,
- (b) to provide a planning framework for Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,
- (c) to promote employment, residential, recreational and leisure, cultural, social and tourism opportunities within the Penrith city centre,
- (d) to respond to the economic and social needs of the region by providing centrally located services and facilities,
- (e) to facilitate new commercial and residential development in the Penrith city centre that is consistent with the desired future character of the area as described in the *Penrith City Centre Development Control Plan 2007*,
- (f) to protect and enhance the cultural identity and diversity of the Penrith city centre,
- (g) to encourage development that contributes to the provision of alternative and sustainable access to the city centre,
- (h) to enhance access to the city centre, particularly by public transport, walking and cycling,
- (i) to facilitate the development of building design excellence appropriate for a regional city and improve the quality of urban design and ensure the public domain is safe and attractive,

Penrith City Centre Local Environmental Plan 2008

Clause 3

Preliminary

Part 1

-
- (j) to encourage responsible management, development and conservation of resources and to ensure that the Penrith city centre achieves sustainable social, economic and environmental outcomes,
 - (k) to protect and enhance environmentally sensitive areas, and the natural and cultural heritage, of Penrith city centre for the benefit of present and future generations.

3 Land to which Plan applies

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

4 Definitions

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

5 Notes

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

6 Consent authority

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

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 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.

Note. The maps adopted under this Plan are the Land Application Map, the Land Zoning Map, the Height of Buildings Map, the Floor Space Ratio Map, the Key Sites Map, the Land Reservation Acquisition Map and the Heritage Map.

Clause 8	Penrith City Centre Local Environmental Plan 2008
Part 1	Preliminary

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 had not commenced.

9 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*, or
 - (e) to any heritage agreement within the meaning of the *Heritage Act 1977*.
- (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).

Penrith City Centre Local Environmental Plan 2008

Clause 10

Preliminary

Part 1

10 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)

State Environmental Planning Policy No 9—Group Homes

State Environmental Planning Policy No 60—Exempt and Complying Development

Clause 11	Penrith City Centre Local Environmental Plan 2008
Part 2	Permitted or prohibited development

Part 2 Permitted or prohibited development

11 Land use zones

The land use zones under this Plan are as follows:

Residential Zones

R4 High Density Residential

Business Zones

B3 Commercial Core

B4 Mixed Use

Special Purpose Zones

SP2 Infrastructure

SP3 Tourist

Recreation Zones

RE1 Public Recreation

12 Zoning of land to which Plan applies

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

13 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.

Penrith City Centre Local Environmental Plan 2008

Clause 14

Permitted or prohibited development

Part 2

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- (4) This clause is subject to the other provisions of this Plan.

Note.

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Clause 16 requires consent for subdivision of land.

14 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.

15 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.

16 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

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- (f) creating a public reserve,
 - (g) 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 conveniences.

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

17 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental impacts.
- (2) Despite any other provision of this Plan, consent may be granted to development on land within any zone for any temporary purpose for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.
- (3) Any such consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use is necessary and reasonable for the economic use of the land pending its subsequent development in accordance with this Plan and other relevant environmental planning instruments, and
 - (b) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any such other instrument, and
 - (c) the temporary use does not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (d) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (e) at the end of the temporary use period, the use and any associated structures will be removed and the site appropriately restored.

Land Use Table

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.

Penrith City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the provision of affordable housing.

2 Permitted without consent

Exempt development

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Environmental protection works; Flood mitigation works; Group homes; Home-based child care or family day care homes; Home businesses; Hostels; Medical centres; Neighbourhood shops (with a gross floor area not exceeding 100m²); Places of public worship; Public utility undertakings; Pubs; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Residential care facilities; Residential flat buildings; Restaurants; Roads; Seniors housing; Serviced apartments; Swimming pools; Telecommunications facilities; Temporary structures; Utility installations

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3); Any other development not otherwise specified in item 2 or 3

Zone B3 Commercial Core

1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses which serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of the Penrith city centre as the business, retail and cultural centre for the region.

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

2 Permitted without consent

Exempt development; Roads

3 Permitted with consent

Advertising structures; Amusement centres; Backpackers' accommodation; Building identification signs; Business identification signs; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Funeral chapels; Funeral homes; Helipads; Hotel accommodation; Information and education facilities; Markets; Medical centres; Mortuaries; Office premises; Passenger transport facilities; Places of public worship; Pubs; Public administration buildings; Public utility undertakings; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Registered clubs; Restaurants; Restricted premises; Retail premises; Serviced apartments; Sex services premises; Take away food or drink premises; Telecommunications facilities; Temporary structures; Tourist and visitor accommodation; Utility installations

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To provide a wide range of retail, business, office, residential, community and other suitable land uses.
- To create opportunities to improve the public domain.
- To provide for the retention and creation of view corridors.

2 Permitted without consent

Exempt development; Roads

Penrith City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

3 Permitted with consent

Advertising structures; Amusement centres; Boarding houses; Building identification signs; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Dwellings; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Funeral chapels; Group homes; Health consulting rooms; Home-based child care or family day care homes; Home businesses; Hostels; Hotel accommodation; Information and education facilities; Markets; Medical centres; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Pubs; Public administration buildings; Public utility installations; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Residential care facilities; Residential flat buildings; Restaurants; Restricted premises; Retail premises; Seniors housing; Serviced apartments; Sex services premises; Shop top housing; Take away food or drink premises; Telecommunication facilities; Temporary structures; Utility installations

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone SP2 Infrastructure

1 Objectives of zone

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

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; Drainage; Environmental protection works; Flood mitigation works; Rainwater tanks; Roads; Telecommunications facilities

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone SP3 Tourist

1 Objectives of zone

- To provide for a variety of tourist-oriented development and related uses.
- To provide for a diversity of visitor accommodation and activities compatible with the promotion of tourism within Penrith and the region.
- To maintain important views to and from the Nepean River as well as to surrounding escarpments, including the Blue Mountains.

2 Permitted without consent

Exempt development

3 Permitted with consent

Advertising structures; Amusement centres; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Charter and tourism boating facilities; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Helipads; Information and education facilities; Jetties; Markets; Medical centres; Neighbourhood shops (with a gross floor area not exceeding 100m²); Places of public worship; Public utility undertakings; Pubs; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restricted premises; Roads; Service stations; Sex services premises; Telecommunications facilities; Temporary structures; Tourist and visitor accommodation; Utility installations; Water recreation structures

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3); Any other development not otherwise specified in item 2 or 3

Penrith City Centre Local Environmental Plan 2008

Clause 17

Land Use Table

Part 2

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To ensure development is consistent with any plan of management adopted for land in the zone.

2 Permitted without consent

Exempt development

3 Permitted with consent

Boat launching ramps; Boat sheds; Building identification signs; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Charter and tourism boating facilities; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Environmental facilities; Environmental protection works; Excavation; Flood mitigation works; Jetties; Kiosks; Markets; Public utility undertakings; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Telecommunications facilities; Temporary structures; Utility installations; Water recreation structures

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3);
Any other development not otherwise specified in item 2 or 3

Clause 18 Penrith City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

Part 3 Exempt and complying development

18 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:
 - (a) the development must:
 - (i) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (ii) if it relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9, the building must have a current fire safety certificate or fire safety statement or the building must be a building for which no fire safety measures are currently implemented, required or proposed, and
 - (b) the development must not:
 - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
 - (ii) create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil, or
 - (iii) be designated development, or
 - (iv) be development on land that comprises, or on which there is, an item of environmental heritage that is listed on the State Heritage Register under the *Heritage Act 1977* or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*, or

Penrith City Centre Local Environmental Plan 2008

Clause 19

Exempt and complying development

Part 3

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- (v) require assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*, or
 - (vi) be located on Lot 12, DP 234581, 164 Station Street, Penrith.

19 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 Conservation 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*).
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Schedule 3 that is carried out in compliance with the applicable development standards listed in that Schedule and that complies with the requirements of section 76A (6) of the Act and the requirements of this Part is complying development.
 - (3) To be complying development, the development:
 - (a) must be permissible, with consent, in the zone in which it is carried out, and
 - (b) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) must 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, and
 - (d) must not be carried out on land:
 - (i) identified as flood liable or contaminated land, or
 - (ii) subject to subsidence, slip or erosion, or
 - (iii) containing potential acid sulfate soils, or

Clause 20 Penrith City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

(iv) located at Lot 12, DP 234581, 164 Station Street, Penrith.

- (4) A complying development certificate issued for any such development must be subject to the conditions for the development specified in Part 2 of Schedule 3.

20 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:
- (a) a sensitive coastal location, or
 - (b) coastal waters of the State, or
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*, or
 - (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, or
 - (f) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, or
 - (g) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*, or
 - (h) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes, or
 - (i) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*, or
 - (j) land containing a threatened or endangered species, population or ecological community identified in the *Threatened Species Conservation Act 1995*, or
 - (k) land dedicated as an Aboriginal area under the *National Parks and Wildlife Act 1974*, or

Penrith City Centre Local Environmental Plan 2008

Clause 20

Exempt and complying development

Part 3

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- (1) land that is, or is near, the Hawkesbury-Nepean River (as identified on the map marked “Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)” and deposited in the offices of the Department.

Clause 21 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

Part 4 Principal development standards

21 Height of buildings

- (1) The objectives of this Plan for the control of the height of buildings are as follows:
 - (a) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,
 - (b) to provide high quality urban form for all buildings,
 - (c) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of higher buildings and to public areas, including parks, streets and lanes,
 - (d) to ensure that taller development occurs on sites capable of providing appropriate urban form and amenity,
 - (e) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
 - (f) to ensure an appropriate height transition between new buildings and heritage items.
- (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.

22 Architectural roof features

- (1) A person may, with development consent, carry out development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 21.
- (2) Development consent must not be granted to any such development unless the consent authority is satisfied that:
 - (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will have minimal overshadowing impact, 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.

Penrith City Centre Local Environmental Plan 2008

Clause 23

Principal development standards

Part 4

23 Sun access

- (1) The objective of this clause is to protect specified public space from overshadowing.
- (2) This clause applies to land in the vicinity of Allen Place, Memory Park, Judges Park and to High Street between Station Street and Lawson Street, as shown edged heavy black on the Height of Buildings Map.
- (3) Despite clauses 21, 22 and 26, development on land adjacent to land to which this clause applies is prohibited if the development would result in overshadowing to a greater degree than would result from adherence to the controls indicated for the land on the Height of Buildings Map.
- (4) This clause does not prohibit development that does not alter the exterior of any existing building.

24 Floor space ratio

- (1) The objectives of this Plan for the control of floor space ratios are as follows:
 - (a) to ensure that proposals for new buildings are assessed with due regard to the design excellence and built form provisions of this Plan,
 - (b) to provide sufficient floor space for high quality development,
 - (c) to regulate density of development and generation of vehicular and pedestrian traffic.
- (2) The floor space ratio of a building on any land is not to exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map.

25 Minimum building street frontage

- (1) Development consent must not be granted to the erection of a building on land zoned B3 Commercial Core or B4 Mixed Use that does not have at least one street frontage of 20 metres or more.
- (2) Despite subclause (1), the consent authority may grant consent to the erection of a building on land referred to in that subclause if it is of the opinion that:
 - (a) due to the physical constraints of the site or an adjoining site or sites, it is not possible for the building to be erected with at least one street frontage of 20 metres or more, and
 - (b) the development is consistent with the aims and objectives of this Plan.

Clause 26 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

26 Design excellence

- (1) This clause applies to development involving the construction of a new building or external alterations to an existing building.
- (2) Consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.
- (3) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors,
 - (d) whether the proposed development detrimentally impacts on any land referred to in clause 23,
 - (e) the requirements of the City Centre Development Control Plan,
 - (f) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) heritage issues and streetscape constraints,
 - (iv) the relationship of the proposed building with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (x) the impact on, and any proposed improvements to, the public domain.

Penrith City Centre Local Environmental Plan 2008

Clause 27

Principal development standards

Part 4

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- (4) Consent must not be granted to the following development to which this Plan applies unless an architectural design competition that is consistent with the City Centre Development Control Plan has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
 - (b) development in respect of a building that is, or will be, greater than 24 metres or 6 storeys (or both) in height,
 - (c) development having a capital value of more than \$1,000,000 on a key site, being a site shown edged heavy black and distinctively coloured on the Key Sites Map,
 - (d) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of up to 10% greater than that allowed by clause 24 or a height of up to 10% greater than that allowed by clause 21, but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
 - (b) the concurrence of the Director-General has been obtained to the development application.
- (7) In determining whether to provide his or her concurrence to the development application, the Director-General is to take into account the matters set out in subclause (3) and the results of the architectural design competition.
- (8) In this clause:
architectural design competition means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

27 Car parking

- (1) The object of this clause is to ensure that adequate car parking is provided for a development that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the Penrith city centre.

Clause 28 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

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- (2) Except as otherwise provided by this Plan, development for the purpose of car parking is to be provided in accordance with the City Centre Development Control Plan.
- (3) Consent must not be granted for development on land zoned B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the floor area of the building unless:
- (a) at least one car parking space is provided for every 60 square metres of the floor area of the building that is to be used for commercial activities, and
 - (b) at least one car parking space is provided for every 30 square metres of the floor area of the building that is to be used for retail activities.
- (4) Car parking required by this Plan must be provided for on site unless the consent authority is satisfied that adequate car parking is provided elsewhere.
- (5) For the purposes of this clause, the following are to be included as part of a building's gross floor area:
- (a) any area of the building that is used for car parking and is at or above existing ground level, except to the extent permitted by the City Centre Development Control Plan,
 - (b) any area of the building that is used for car parking below ground level, except where the car parking is provided as required by this clause.
- (6) Council owned public car parking is not to be included as part of a building's gross floor area.
- (7) In this clause:
- commercial activities**, in relation to the use of a building, means using the building for the purposes of office premises, business premises, hotel accommodation (but not hotel accommodation that is subdivided under a strata scheme) or other like uses or a combination of such uses.
- retail activities**, in relation to the use of a building, means using the building for the purposes of retail premises, amusement centres, function centres, medical centres, registered clubs, service stations or other like uses or a combination of such uses.

28 Ground floor development within Zones B3 and B4

- (1) The ground floor of any development that is a building on land zoned B3 Commercial Core or B4 Mixed Use must have an active street frontage consistent with the City Centre Development Control Plan, and

Penrith City Centre Local Environmental Plan 2008

Clause 29

Principal development standards

Part 4

be used for commercial activities or retail activities (within the meaning of clause 27) other than any parts of that floor used for:

- (a) lobbies for any commercial, residential, serviced apartment or hotel component of the development, or
 - (b) access for fire services, or
 - (c) vehicle access.
- (2) Despite subclause (1), an active street frontage is not required in respect of any part of a building:
- (a) facing a back lane, unless the lane is identified as a pedestrian link in the City Centre Development Control Plan, or
 - (b) facing another street, unless the street is identified as requiring an active street frontage in the City Centre Development Control Plan.

29 Building separation

Buildings on land to which this Plan applies must be erected so that the separation distance:

- (a) from neighbouring buildings, and
- (b) between separate parts or other separate raised parts of the same building,

is not less than that provided for in the City Centre Development Control Plan.

30 Ecologically sustainable development

Before granting consent to development the consent authority must have regard to the principles of ecologically sustainable development as they relate to the proposed development based on a “whole of building” approach by considering each of the following:

- (a) conserving energy and reducing carbon dioxide emissions,
- (b) embodied energy in materials and building processes,
- (c) building design and orientation,
- (d) passive solar design and day lighting,
- (e) natural ventilation,
- (f) energy efficiency and conservation,
- (g) water conservation and water reuse,
- (h) waste minimisation and recycling,
- (i) reduction of car dependence,
- (j) potential for adaptive reuse.

Clause 31 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

31 Serviced apartments

Development consent must not be granted to development for the purpose of the strata subdivision of a building or part of a building that is or has been used for serviced apartments, unless the consent authority is satisfied that the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* and the design principles of the *Residential Flat Design Code* (a publication of the Department of Planning, September 2002) are achieved for the development as if it were a residential flat development.

32 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 or of *State Environmental Planning Policy No 1—Development Standards*.
- (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

Penrith City Centre Local Environmental Plan 2008

Clause 32

Principal development standards

Part 4

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) 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).
- (7) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

Clause 33 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

Part 5 Miscellaneous provisions

33 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 within a zone referred to below, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted by section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority

- (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.

34 Development on proposed classified road

- (1) Consent for development on land reserved for the purposes of a classified road may, before the land becomes a classified road, be granted only if:
- the development is carried out with the concurrence of the Roads and Traffic Authority (**the RTA**), and
 - the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone.

Penrith City Centre Local Environmental Plan 2008

Clause 35

Miscellaneous provisions

Part 5

- (2) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes of a classified road or a proposed classified road,
 - (b) the imminence of acquisition of the land by the RTA,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.

35 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council, by means of this Plan, 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 on the commencement of the relevant classification Plan and, by the operation of that Plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and

Clause 36 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (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*).
- (6) In this clause, the *relevant classification Plan*, in relation to land described in Part 2 of Schedule 4, means this Plan or, if the description of the land is inserted into that Part by another environmental planning instrument, that instrument.
- (7) Before the relevant classification Plan inserted a description of land into Part 2 of Schedule 4, the Governor approved of subclause (5) applying to the land.

36 Community use of educational establishments

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

37 Classified roads

- (1) The objectives of this clause are:
 - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads (within the meaning of the *Roads Act 1993*), and
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) Consent must not be granted to the development of land that has a frontage to a classified road unless the consent authority is satisfied that:
 - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the proposed development, or

Penrith City Centre Local Environmental Plan 2008

Clause 38

Miscellaneous provisions

Part 5

-
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the proposed development.

38 Development in proximity to a rail corridor

- (1) The objective of this clause is to ensure that development for the purpose of residential accommodation, places of public worship, hospitals, educational establishments or other noise sensitive buildings in the proximity of operating or proposed railways is not adversely affected by rail noise or vibration.
- (2) This clause applies to land comprising, or within 60 metres of, an operating railway line or land reserved for the construction of a railway line (referred to in this clause as a *rail corridor*).
- (3) Development consent must not be granted to development:
 - (a) that is within a rail corridor, and
 - (b) that the consent authority considers is, or is likely to be, adversely affected by rail noise or vibration,
 unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

39 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) 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

Clause 40	Penrith City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

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.
- (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*.

40 Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of the Penrith city centre, and

Penrith City Centre Local Environmental Plan 2008

Clause 40

Miscellaneous provisions

Part 5

-
- (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

Clause 40	Penrith City Centre Local Environmental Plan 2008
Part 5	Miscellaneous provisions

- (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) **Heritage impact assessment**
- The consent authority may, before granting consent to any development on land:
- (a) on which a heritage item is situated, or
 - (b) within a heritage conservation area, or
 - (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (5) **Heritage conservation management plans**
- The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (6) **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 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.

Penrith City Centre Local Environmental Plan 2008

Clause 40

Miscellaneous provisions

Part 5

(7) **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.

(8) **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 heritage 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 within 28 days after the notice is sent.

(9) **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.

Clause 41 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

41 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.

42 Development for group homes

- (1) The objective of this clause is to facilitate the establishment of:
 - (a) permanent group homes in which persons with a disability or socially disadvantaged persons may live in an ordinary residential household environment instead of an institutional environment, and
 - (b) transitional group homes which provide temporary accommodation for persons with a disability or socially disadvantaged persons in an ordinary residential household environment instead of an institutional environment for such purposes as alcohol or drug rehabilitation and half-way rehabilitation for persons formerly living in institutions and refuges for men, women or young persons.
- (2) If development for the purpose of a dwelling house or a dwelling in a residential flat building may lawfully be carried out in accordance with this Plan, development for the purposes of a group home may, subject to this clause, be carried out.
- (3) Consent is required to carry out development for the purposes of a transitional group home.
- (4) Consent is required to carry out development for the purposes of a permanent group home that contains more than 5 bedrooms.
- (5) Consent is required to carry out development for the purposes of a permanent group home that contains 5 or less bedrooms and that is occupied by more residents (including any resident staff) than the number equal to the number calculated by multiplying the number of bedrooms in that home by 2.
- (6) Consent may not be refused under this clause unless an assessment has been made of the need for the group home concerned.
- (7) Nothing in this clause requires consent to be obtained by the Department of Housing (or by a person acting jointly with the Department of Housing) to carry out development for the purposes of a transitional group home.

Penrith City Centre Local Environmental Plan 2008

Clause 43

Miscellaneous provisions

Part 5

43 Crown development and public utilities

- (1) Nothing in this Plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:
 - (a) the carrying out of development of any description specified in subclauses (2)–(12), or
 - (b) the use of existing buildings of the Crown by the Crown.
- (2) The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:
 - (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
 - (b) the erection within the limits of a railway station of buildings for any purpose,
but excluding:
 - (c) the construction of new railways, railway stations and bridges over roads, and
 - (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and
 - (e) the formation or alteration of any means of access to a road, and
 - (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- (3) The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings:
 - (a) development of any description at or below the surface of the ground,
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the commencement of this Plan of any plant or other structures or erections required in connection with the station or substation,
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of

Clause 43 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housing of stone, concrete or brickworks,
- (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
 - (e) the erection of service reservoirs on land acquired or in the process of being acquired for the purpose before the commencement of this Plan, provided reasonable notice of the proposed erection is given to the consent authority,
 - (f) any other development, except:
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (ii) the formation or alteration of any means of access to a road.
- (4) The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (5) The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.

Penrith City Centre Local Environmental Plan 2008

Clause 43

Miscellaneous provisions

Part 5

-
- (6) The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (7) The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (8) The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:
- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (9) The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.
- (10) The carrying out of any forestry work by the Forestry Commission or Community Forest Authorities empowered under relevant Acts to undertake afforestation, the construction of roads, protection, cutting and marketing of timber, and other forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.

Clause 43 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (11) The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purposes, and
 - (b) any development designed to change the use or purpose of any such reserve.
- (12) The carrying out or causing to be carried out by the consent authority, where engaged in flood mitigation works, or by the Department of Natural Resources, of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Water Management Act 2000*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except:
- (a) the erection of buildings, and installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, and
 - (b) the formation or alteration of any means of access to a road.

Penrith City Centre Local Environmental Plan 2008

Clause 44

Local provisions

Part 6

Part 6 Local provisions

44 Location of sex services premises and restricted premises

- (1) The object of this clause is to ensure that sex services premises and restricted premises are not visually prominent from public spaces, or other locations, regularly frequented by children.
- (2) Despite any other provision of this Plan, consent must not be granted for development for the purpose of sex service premises or restricted premises located in a mixed use development that contains dwellings unless the consent authority is satisfied that the primary entrance of the development is not visually prominent when viewed from a dwelling or any other place regularly frequented by children, such as schools, playgrounds and the like.

Penrith City Centre Local Environmental Plan 2008

Schedule 1 Additional permitted uses

Schedule 1 Additional permitted uses

(Clause 15)

Land	Additional land use	Conditions
Lots 101–104, DP 1031340; Lot 1, DP 198953; Lots A and B, DP 161052; Lot 1, DP 198962; Lot 1, DP 198323; Lot 1, DP 198446; Parts 4 and 5, Lot 90, DP 752044	Child care centre	
Lot 12, DP 234581 (No 164 Station Street, Penrith)	Business premises (excluding restricted premises) Entertainment facility Function centre Hotel accommodation Office premises Retail premises (excluding restricted premises)	Development must be located in the northern portion of the site, identified as Area A on the Design Principles Map applying to Precinct 2–Panasonic, contained in the City Centre Development Control Plan. Development must be consistent with the design principles applying to that Precinct contained in that Plan. The gross floor area of development for the purpose of business premises or office premises, or a combination of those uses, must not exceed 20,000m ² . The gross floor area of development for the purpose of entertainment facilities, hotel accommodation, a function centre, or a combination of those uses, must not exceed 20,000m ² . The gross floor area of development for the purpose of retail premises must not exceed 3,000m ² .

Penrith City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

Schedule 2 Exempt development

(Clause 18)

Access ramps for people with disabilities

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum ramp height—0.5m.
- (3) Must comply with Australian Standard AS 1428.1—2001: *Design for access and mobility—General requirements for access—New building work*.

Advertisements and signs

- (1) Advertisement displaying a message relating to an activity lawfully carried out on the premises changed from a previously approved advertisement, but not on a building that is subject to existing use rights.
- (2) Advertisement not visible from outside the site on which it is displayed:
 - (a) relating to an activity that is permissible and, where required, approved on the property,
 - (b) must be structurally stable, be positioned so as not to impede pedestrian access or result in a traffic hazard, and not significantly affect adjoining properties,
 - (c) must not be carried out on a building that is subject to existing use rights.
- (3) Advisory or directional sign (such as a traffic directional sign or street signs):
 - (a) must comply with Australian Standards AS 1742.2—1994: *Manual of uniform traffic control devices—Traffic control devices for general use*,
 - (b) must comply with section 2.3 of Penrith Development Control Plan, as adopted 21 August 2006.
- (4) Business identification sign relating to an activity lawfully carried out on the property on which it is displayed (other than an activity that is an existing use):
 - (a) suspended under awning signs:
 - (i) must be erected at right angles to the face of the building,
 - (ii) must not extend beyond 0.6m from the kerb,
 - (iii) must not be an illuminated flashing sign,
 - (iv) 1 per premises,

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

- (b) top hamper signs:
 - (i) must not extend below the level of the head of the window or above the wall to which it is attached,
 - (ii) 1 per premises,
- (c) fascia signs:
 - (i) must be structurally stable,
 - (ii) must not impede pedestrian access or cause a traffic hazard,
 - (iii) must not significantly affect adjoining properties,
 - (iv) 1 per premises.
- (5) Public notice:
 - (a) must be structurally stable,
 - (b) must not impede pedestrian access or result in a traffic hazard,
 - (c) must not significantly affect adjoining properties.
- (6) Real estate sign:
 - (a) maximum 2 per premises,
 - (b) must be structurally stable,
 - (c) must be located within the property boundaries,
 - (d) must not impede pedestrian access or result in a traffic hazard,
 - (e) if double sided or 'V' sign—must not exceed 4.5m² in area per sign face,
 - (f) must be removed within 14 days of the property advertised on the sign being sold or let.
- (7) Temporary sign (such as a banner, bunting, poster, inflatable structure or the like) advertising an event:
 - (a) must not be displayed earlier than 28 days before the event to which it relates is to take place and must be removed within 14 days after the event,
 - (b) must be structurally stable,
 - (c) must not significantly affect adjoining property,
 - (d) must not impede pedestrian access or result in a traffic hazard,
 - (e) must not be on or above public property.

Bollards erected for security purposes to business premises, office premises, or retail premises

- (1) Must not be carried out on a building that is subject to existing use rights.

Penrith City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

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- (2) Installation must not affect the existing means of egress from the building or site, as determined under the *Building Code of Australia*.
 - (3) Maximum height—1.2m.
 - (4) Maximum diameter—0.5m.
 - (5) Must be installed wholly within the property.
 - (6) Design and finish must complement the existing building or site.

Bridges and staircases constructed by or on behalf of the Council on land owned, controlled or managed by the Council as a public park or recreation area

- (1) Maximum bridge span—5m.
- (2) Design, fabrication and installation must comply with applicable requirements of the following:
 - (a) AS 4100—1998: *Steel structures*,
 - (b) AS 1720.1—1997: *Timber structures—Design methods*,
 - (c) AS 3600—2001—*Concrete structures*,
 - (d) Australian National Parks and Wildlife Service Walking Track Management Manual Standards,
 - (e) any applicable Plan of Management or Landscape Plan.

Change of use of existing business premises or office premises to another business premises or office premises (excluding a public administration building and restricted premises)

- (1) Must not be carried out on land:
 - (a) subject to, or on which there is a building subject to, existing use rights, or
 - (b) within a heritage conservation area.
- (2) Must not generate an increase in vehicular movement to and from the site or require the creation of additional parking spaces on site.

Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (3) Must not require structural work, a change in building classification under the *Building Code of Australia*, an extension of hours outside the approved hours of operation, or any external building works (other than an advertisement that is an exempt development).

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

Change of use of existing retail premises to another retail premises (excluding food or drink premises and restricted premises)

- (1) Not on land within a heritage conservation area.
- (2) Must not be carried out on a building that is subject to existing use rights.
- (3) Must not generate an increase in vehicular movement to and from the site or require the creation of additional parking spaces on site.
Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (4) Must not require structural work, a change in building classification under the *Building Code of Australia*, an extension of hours outside the approved hours of operation, or any external building works (other than an advertisement that is an exempt development).

Clothes lines or hoists for domestic purposes

- (1) Must be located behind the front setback.
- (2) Must be installed to manufacturer's specifications.

Enclosures for dangerous dogs or restricted dogs required under section 51 or 56 of the Companion Animals Act 1998

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) 1 per property.

Fencing constructed by or on behalf of the Council on land owned, controlled or managed by the Council as a public park or recreation area in Zone RE1 Public Recreation

- (1) Must not be carried out on a building or land that is subject to existing use rights.
- (2) Must not impede the natural flow of stormwater drainage.
- (3) Must not encroach on public land.
Note. See separate section on Retaining Walls.
Note. See also the *Dividing Fences Act 1991*.

Goal posts, sightcreens and similar minor ancillary structures relating to sporting facilities constructed by or on behalf of the Council on land that is a public park or recreation area (excluding grandstands, dressing sheds and the like)

Must be installed in accordance with any relevant Australian Standards.
Note. Development approval is required for structures that accommodate people, for example grandstands, dressing sheds and the like.

Penrith City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

Home occupation

- (1) Must be in an existing dwelling or multi dwelling housing.
- (2) Must not consist of home industry.

Lighting installed by or on behalf of the Council in sporting or playing fields

- (1) Construction and design must comply with the relevant requirements of:
 - (a) AS 2560.1-2002: *Sports lighting—General principles*, and
 - (b) the applicable Part of AS 2560.2: *Sports lighting—Specific applications*.
- (2) Must not cause a nuisance to adjoining properties.

Note. Consideration should be given to the selection of floodlights and their aiming to ensure that direct view of lamps is minimised for viewing positions outside the property boundaries. In special cases, screening hoods or louvres may be required to achieve a satisfactory control.
- (3) Adjoining neighbours must be consulted 14 days before the installation of lighting.
- (4) Must be structurally stable.

Minor internal (non-structural) alterations to existing business, office or retail premises (excluding a public administration building, food or drink premises and restricted premises)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not result in a change in building classification.
- (3) Existing floor area of the unit or tenancy must not exceed 200m².
- (4) Must not compromise fire safety or affect accessibility to an exit.
- (5) Must not involve changes to the configuration of rooms by removal of structural walls or other means of structural support.
- (6) If within a heritage conservation area, the alterations must not be visible from a public place.

Outdoor eating area ancillary to a restaurant

Note. The applicant or operator is to have and keep current a policy of insurance that covers the public liability of the person for an amount of not less than \$10,000,000. The policy is to indemnify Penrith City Council against liability for any civil action arising out of the use of the area as an outdoor eating area between the front property boundary of the shop and the kerb line of the street for the full frontage of the shop premises. A copy of the policy is to be provided to the Council before commencing any development to which this clause applies.

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

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- (1) Only on a footpath wider than 3.5m.
 - (2) An area not less than 2m wide of the footpath must be kept clear of obstructions to enable pedestrian traffic.
 - (3) Must comply with the provisions of section 3.6 of *Penrith Development Control Plan 2006*.
 - (4) Minimum distance of tables and seating from:
 - (a) doorway of the premises—0.5m,
 - (b) any post box—1.5m,
 - (c) any phone box—1.5m,
 - (d) any pedestrian crossing—3.0m,
 - (e) any bus stop (including associated seating)—3.0m,
 - (f) any taxi stand—3.0m,
 - (g) any other utilities—sufficient to provide access for maintenance and repair.
 - (5) A physical and visual barrier not less than 60cm high must surround the outdoor eating area.
 - (6) Must be defined by a barrier of sturdy construction and a minimum of 60cm high, with no sharp edges or protruding feet that may cause a trip hazard.
 - (7) Must operate no more than the hours specified in the consent for the restaurant.
 - (8) Any associated menu board must have a maximum area of 0.9m x 0.6m and must be fixed to a wall or window.

Park and street furniture for public use (including seats, bins, picnic tables, minor shelters and bus shelters) installed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Design, fabrication and installation must comply with relevant SAA standards.
- (2) Maximum gross floor area of bus shelter—25m².

Pergola (no roof covering)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Not on multi dwelling housing.
- (3) Maximum gross floor area—25m².
- (4) Maximum height—2.7m.

Penrith City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

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- (5) Must not be enclosed.
 - (6) Must be located in line with or behind the front setback and secondary street setback (if any).

Playground equipment installed by or on behalf of the Council on land owned, controlled or managed by the Council and classified as community land under the Local Government Act 1993

- (1) Design, fabrication and installation must comply with the applicable requirements of the following:
 - (a) AS 4685—2004: *Playground equipment safety set*,
 - (b) AS/NZS 4422:1996: *Playground surfacing—Specifications, requirements and test method*,
 - (c) AS/NZS 4486.1:1997: *Playgrounds and playground equipment—Development, installation, inspection, maintenance and operation*.
- (2) Must comply with any plan of management or landscape plan applying to the land.

Privacy screen on a residential property

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum height—2.2m.
- (3) Maximum length—10m.
- (4) Must be located in rear yard.
- (5) Must be constructed from translucent materials or in a style that is translucent (such as lattice).
- (6) Must be free-standing.
- (7) Must not be attached to a boundary fence without the consent of the adjoining owner.

Retaining walls required as a result of excavations associated with the construction of a building

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum height—1m.
- (3) Construction must comply with the deemed-to-satisfy provisions of the *Building Code of Australia* and the relevant Australian Standards.

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

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- (4) Must not obstruct or interfere with any overland flowpaths, or result in the natural flow of water being impeded or redirected.
 - (5) Must be constructed to manufacturer's details or to a structural engineer's design.
 - (6) The filled area must not provide a line of sight into an adjoining property.

Replacement of windows, glazed areas and external doors in multi dwelling housing

- (1) Materials must comply with applicable requirements of AS 1288—2006: *Glass in buildings—Selection and installation* and AS 2047—1999: *Windows in buildings—Selection and installation*.
- (2) Must not result in increase or reduction of area provided for light and ventilation.
- (3) Must not involve removal of structural members.
- (4) Must not involve removal of doorways.
- (5) Must not involve enclosure of open areas.

Satellite dishes for domestic purposes

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not be on a dual occupancy or multi dwelling housing.
- (3) Maximum diameter—1m.
- (4) 1 per dwelling.
- (5) Must be located behind the front setback of dwelling and at least 900mm from side and rear property boundary.
- (6) If not attached to dwelling, maximum height—2.4m above ground level.
- (7) Must be structurally stable.
- (8) Must not encroach over any property boundary.

Shade structure constructed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Maximum gross floor area—50m².
- (2) Must not be constructed from second hand materials.
- (3) All stormwater runoff is to be directed to the existing stormwater system.

Penrith City Centre Local Environmental Plan 2008

Exempt development

Schedule 2

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- (4) If attached to an existing building or structure, the shade structure will not cause the building to contravene the *Building Code of Australia*.

Note. The shade structure should be constructed in accordance with Penrith City Council's Policy "Minimum Shade Protection in Public Places", adopted 6 October 1992.

Skylights or roof lights in multi dwelling housing

- (1) Maximum area—1m².
- (2) Must be installed in accordance with manufacturer's specifications.
- (3) Any opening created by the installation is to be adequately weatherproofed.
- (4) Must not reduce the structural integrity of the building or involve structural alterations.

Solar water heaters, solar panels and solar lighting

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not reduce the structural integrity of the building or involve structural alterations.
- (3) Any opening created by the installation is to be adequately weatherproofed.
- (4) Must be installed by a licensed tradesperson and in accordance with manufacturer's specifications.

Temporary use of existing building as a place of public entertainment

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum duration—72 hours.
- (3) Maximum height of any associated structure—25m.

Note. See also section 68 of the *Local Government Act 1993*.

Use of Class 9b building (within the meaning of the Building Code of Australia) for the purpose of public meetings

Must not be carried out on a building that is subject to existing use rights.

Waste storage container (such as a skip bin) temporarily placed in a public place

- (1) Must be supplied by a supplier accredited by the Council.

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

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- (2) Must comply with all conditions of Penrith City Council's *Skip Waste Bin Operator Code of Practice*, adopted 24 May 1999.

Note. A copy of Council's Skip Waste Bin Operator Code of Practice may be obtained from Council's offices.

Water heaters (excluding solar hot water systems)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not reduce the structural integrity of the building or involve structural alterations.
- (3) Must be installed by a licensed tradesperson and in accordance with manufacturer's specifications.

Water storage tanks at or above ground level installed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Maximum capacity—30,000L.
- (2) If on land in a residential zone, must be located:
- (a) behind the front setback or secondary street setback (where applicable), and
 - (b) not less than 900mm from any property boundary.
- (3) Minimum setback—5m.
- (4) Underground tanks must not be located in an area that may result in an effect on any adjoining structure (such as footing systems).
- (5) Maximum height of stands for tanks—1.8m above ground level.
- (6) The overflow of the tank must be connected to the existing stormwater system and not cause a nuisance to neighbouring properties.
- (7) Must be structurally sound.
- (8) Tanks and stands must be installed in accordance with the manufacturer's specifications.
- (9) Must be protected against mosquito infestation.
- (10) Where reticulated water is available, must not be interconnected with any system supplying drinking water unless fitted with mechanical backflow prevention devices in accordance with AS/NZS 2845.1: 1998: *Water supply—Backflow prevention devices—Materials, design and performance requirements*.
- (11) Any pump noise to adjoining properties must be minimised.

Penrith City Centre Local Environmental Plan 2008

Complying development

Schedule 3

Schedule 3 Complying development

(Clause 19)

Part 1 Excluded land

Excluded land

Nothing in this Schedule applies to development on land known as Lot 12, DB 234581, No 164 Station Street, Penrith.

Part 2 Development standards for complying development

Note. Development standards for complying development are also prescribed by the *Environmental Planning and Assessment Regulation 2000*.

Strata subdivision of development completed after 1994

- (1) The development to be subdivided must have been constructed in accordance with the deemed-to-satisfy provisions of the *Building Code of Australia*.
- (2) The subdivision layout must comply with the development consent for the completed development.

Internal alterations to business, office or retail premises (other than public administration buildings, restaurants, pubs and take away food or drink premises)

- (1) Must not result in a change of building classification.
- (2) Must not result in an increase in gross floor area.
- (3) Must not involve external building works (other than works relating to an advertisement that is exempt development).
- (4) Must be consistent with any conditions of the existing consent for the use.
- (5) If within a heritage conservation area, must not be visible from a public place.
- (6) Must not result in an increase in vehicular movement to and from the site, and must not generate an increase in parking demand or parking spaces required on the site.

Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).

- (7) Must not compromise fire safety or impede access to an exit.

Penrith City Centre Local Environmental Plan 2008

Schedule 3 Complying development

Change of use of an existing commercial tenancy to take away food or drink premises (other than premises licensed under the Liquor Act 1982), including internal alterations

- (1) Must not result in a change of use to a restaurant or pub.
- (2) Must not be carried out on a building that is subject to existing use rights.
- (3) Must not generate an increase in vehicular movement to and from the site or require the creation of additional off-street parking spaces.
Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (4) Must not involve external building works (other than works relating to an advertisement that is exempt development).
- (5) Must not involve extension of hours outside the approved hours of operation.
- (6) Must not involve the installation of a mechanical exhaust ventilation system.
- (7) Must not generate offensive smoke or odours.
- (8) Must not involve the cooking of food by barbecue or charcoal methods.
- (9) If within a heritage conservation area, must not be visible from a public place.
- (10) All waste generated by the development must be disposed of by a private waste contractor. Suitable provision must be made for the storage of all waste generated by the development before its disposal, with consideration being given to the type and size of waste receptacles used and the service frequency for disposal of waste.
- (11) No nuisance to adjoining properties is to be caused by the storage and disposal of waste.
- (12) Waste minimisation initiatives are to be carried out as part of the day to day operations.
- (13) The premises are to be registered with the Council as required by the Council before the commencement of the use.

Penrith City Centre Local Environmental Plan 2008

Complying development

Schedule 3

Part 3 Complying development certificate conditions

Note. Conditions standards for complying development are also prescribed by the *Environmental Planning and Assessment Regulation 2000*. See also section 86 of the Act, which requires certain steps to be taken before erection of a building in accordance with a complying development certificate begins.

General conditions applicable to all development

- (1) The development must be implemented in accordance with the plans numbered_____and dated_____, the application form and any supporting information submitted with the application.
- (2) A complying development certificate is valid for a period of 5 years from the date of the certificate, and will lapse unless the development to which it relates has been physically commenced within that time.
- (3) Before any work is carried out on land owned by the Council, including a road reserve, consent must be obtained from Penrith City Council as the property owner as well as any other consents or approvals required under other relevant legislation.
- (4) Before work is commenced, all fees associated with development on land and infrastructure owned by the Council must be paid to Penrith City Council. These fees may include road opening fees and infrastructure restoration fees.
- (5) No sign, other than a sign of a kind identified as exempt development in Schedule 2, may be erected on the premises without consent.
- (6) Works must comply with the fire safety schedule for the development attached to the complying development certificate.
- (7) The principal certifying authority must notify all adjoining property owners and occupiers (if the occupier is not the property owner) of the intended commencement of a complying development activity at least 5 working days prior to the intended commencement date.
- (8) Stamped plans, specifications and a copy of the complying development certificate must be available on site at all times during construction.
- (9) Building materials must not be stored at any time on the footpath or roadway.

Conditions applicable to strata subdivision

- (1) Strata subdivision must not encroach on any statutory boundary clearances or setbacks. A survey plan prepared by a registered surveyor, showing the relative position of all buildings to the proposed boundaries must be submitted to the principal certifying authority.

Penrith City Centre Local Environmental Plan 2008

Schedule 3 Complying development

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- (2) A compliance certificate under section 73 of the *Sydney Water Act 1994* must be obtained and a copy submitted to the principal certifying authority.
 - (3) An application must be submitted to Penrith City Council for the issue of a strata certificate. The application is to be accompanied by the original subdivision plan and 10 copies of the plan. The following information is to be shown on each copy of the plan:
 - (a) location of all buildings and/or other permanent improvements, and
 - (b) statutory boundary clearances or setbacks as defined by the *Building Code of Australia* or as approved as part of the completed development in accordance with the development consent, and
 - (c) all existing services wholly contained within the lot served and/or covered by an appropriate easement(s).
 - (4) A compliance certificate (within the meaning of section 109C (1) (a) of the *Environmental Planning and Assessment Act 1979*) to the effect that all conditions of the complying development certificate have been satisfied or met is to be obtained in relation to the development prior to the issue of a strata certificate. A copy of the compliance certificate must be submitted to Penrith City Council as part of the application for the strata certificate.

Conditions applicable to take away food or drink premises

- (1) All take away food or drink premises construction and works must comply with the applicable requirements of the *National Code for the Construction and Fitout of Food Premises* (1993) published by the Australian Institute of Environmental Health, the *Food Act 2003* and the *Food Regulation 2004*.
- (2) Prior to the take away food or drinks premises commencing, the proprietor must ensure that:
 - (a) an inspection has been carried out by Penrith City Council, in regard to the food premises, and
 - (b) the business is registered with Council by submitting a "Registration of Premises" form (available from Council) to the Council.

Conditions applicable to development for which Penrith City Council is the principal certifying authority

- (1) A compliance certificate (within the meaning of section 109C (1) (a) of the *Environmental Planning and Assessment Act 1979*) to the effect that all conditions of the complying development certificate have been

Penrith City Centre Local Environmental Plan 2008

Complying development

Schedule 3

satisfied or met is to be obtained in relation to the development prior to the issue of a strata certificate.

- (2) Use of the building or part of the building must not commence before an occupation certificate (within the meaning of section 109C (1) (c) of the *Environmental Planning and Assessment Act 1979*) has been issued by the principal certifying authority. Such a certificate cannot be issued unless a final fire safety certificate has been issued for the building (clause 153 of the *Environmental Planning and Assessment Regulation 2000*). A fire safety certificate is a certificate to the effect that each essential fire safety measure specified in the current fire safety schedule (within the meaning of Part 9 of the *Environmental Planning and Assessment Regulation 2000*) for the building to which the certificate relates:
 - (a) has been assessed by a properly qualified person, and
 - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.
- (3) All requirements of Part 9 of the *Environmental Planning and Assessment Regulation 2000* relating to fire safety schedules, fire safety statements and fire safety certificates must be complied with.
- (4) All materials and goods associated with the ongoing operation of the development must be contained within the building or unit at all times.
- (5) Existing landscaping on the site must be retained and maintained.
- (6) The finishes of all structures and buildings on the site must be maintained and any graffiti or vandalism removed or repaired as soon as practicable.

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 35)

Part 1 Land classified as operational land—no interests changed

Column 1	Column 2
Locality	Description
Penrith	Lot 3A, DP 175 Belmore Street
Penrith	Lot 34, DP 175 Belmore Street
Penrith	Lot 35, DP 175 Belmore Street
Penrith	Lot 36, DP 175 36 Belmore Street
Penrith	Lot 38, DP 175 31 Belmore Street
Penrith	Lot 39, DP 175 31 Belmore Street
Penrith	Lot 40, DP 175 31 Belmore Street
Penrith	Lot 41, DP 175 31 Belmore Street
Penrith	Lot 42, DP 175 31 Belmore Street
Penrith	Lot 43, DP 175 31 Belmore Street
Penrith	Lot 44, DP 175 31 Belmore Street
Penrith	Lot 50, DP 175 23 Belmore Street
Penrith	Lot 51, DP 175 21 Belmore Street
Penrith	Lot 52, DP 175 13 Belmore Street
Penrith	Lot 1, DP 198630 3 Belmore Street
Penrith	Lot 1, DP 198915 5 Belmore Street
Penrith	Lot 1, DP 198960 Belmore Street
Penrith	Lot 1, DP 204877 13 Belmore Street
Penrith	Lot 2, DP 204877 11 Belmore Street
Penrith	Lot B, DP 315775 23 Belmore Street
Penrith	Lot A, DP 315775 27 Belmore Street
Penrith	Lot 1, DP 339467 31 Belmore Street
Penrith	Lot A, DP 349351 13 Belmore Street

Penrith City Centre Local Environmental Plan 2008

Classification and reclassification of public land

Schedule 4

Column 1	Column 2
Locality	Description
Penrith	Lot B, DP 349351 13 Belmore Street
Penrith	Lot B, DP 419408 29 Belmore Street
Penrith	Lot A, DP 419408 31 Belmore Street
Penrith	Lot 1, DP 659573 9 Belmore Street
Penrith	Lot 1, DP 724427 13 Belmore Street
Penrith	Lot 2, DP 724427 13 Belmore Street
Penrith	Lot 113, DP 1028320 CT 2013 32 Belmore Street
Penrith	Lot 9, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 10, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 11, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 15, DP 236062 5 Castlereagh Street
Penrith	Lot F, DP 30935 5 Castlereagh Street
Penrith	Lot 1, DP 198234 Commercial Street
Penrith	Lot 2, DP 198234 Commercial Street
Penrith	Lot 1, DP 198475 Commercial Street
Penrith	Lot 10, DP 859371 Commercial Street
Penrith	Lot C, DP 154478 230 Derby Street
Penrith	Lot D, DP 154478 228 Derby Street
Penrith	Lot 21, DP 979866 226 Derby Street
Penrith	Lot 22, DP 979866 226 Derby Street
Penrith	Lot 23, DP 979866 222 Derby Street
Penrith	Lot 24, DP 979866 222 Derby Street
Penrith	Lot 1, DP 113118 118–120 Henry Street
Penrith	Lot 1, DP 164798, CT 2014 134–138 Henry Street
Penrith	Lot 1, DP 254763 122–132 Henry Street
Penrith	Lot 1, DP 252457, CT 2015 134–138 Henry Street
Penrith	Lot 10, DP 553665 142 Henry Street
Penrith	Lot 11, DP 553665 140 Henry Street
Penrith	Lot 2, DP 556075 144 Henry Street

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 101, DP 749088 54–60 Henry Street
Penrith	Lot 100, DP 872220 154 Henry Street
Penrith	Lot1, DP1070959 99a Henry Street
Penrith	Lot 1, DP 198305 121 High Street
Penrith	Lot 1033, DP 849297 597–599 High Street
Penrith	Lot 1033, DP1102232 601–611 High Street
Penrith	Lot 1, DP 198599 1 Lawson Street
Penrith	Lot 1, DP 199271 3 Lawson Street
Penrith	Lot 101, DP 572474 33a Lawson Street
Penrith	Lot 10, DP 849474 5–17 Lawson Street
Penrith	Lot 3, Sec 6, DP 192127 3 North Street
Penrith	Lot 2, DP 112677 4 North Street
Penrith	Lot 1, DP 115384 14 North Street
Penrith	Lot B, DP 160112 12 North Street
Penrith	Lot A, DP 160112 13 North Street
Penrith	Lot B, DP 164794 6 North Street
Penrith	Lot A, DP 164794 7 North Street
Penrith	Lot 1, DP 198625 9 North Street
Penrith	Lot 1, DP 711683 5 North Street
Penrith	Lot 1, DP 794511 15 North Street
Penrith	Lot 1, DP 794510 10 North Street
Penrith	Lot 1, DP 986707 8 North Street
Penrith	Lot 2, DP 156110 11 Reserve Street
Penrith	Lot 1, DP 156110 15 Reserve Street
Penrith	Lot B, DP 160027 3 Reserve Street
Penrith	Lot A, DP 160027 5 Reserve Street
Penrith	Lot 1, DP 198621 9 Reserve Street
Penrith	Lot 2, DP 198621 7 Reserve Street
Penrith	Lot 1, DP 198672 17 Reserve Street

Penrith City Centre Local Environmental Plan 2008

Classification and reclassification of public land

Schedule 4

Column 1	Column 2
Locality	Description
Penrith	Lot 2, DP 198672 17 Reserve Street
Penrith	Lot 25, DP 526159 105 Station Street
Penrith	Lot 26, DP 529693 107 Station Street
Penrith	Lot 24, DP 60124 103 Station Street
Penrith	Lot 23, Sec 2, DP 976320 101 Station Street
Penrith	Lot 1, DP 236062 Tindale Street
Penrith	Lot 4, DP 236062 Tindale Street
Penrith	Lot 10, DP 236062 Tindale Street
Penrith	Lot 11, DP 236062 Tindale Street
Penrith	Lot 12, DP 236062 Tindale Street
Penrith	Lot 13, DP 236062 Tindale Street
Penrith	Lot 2, DP 530675 3a Tindale Street
Penrith	Lot 13, DP 656874 5 Tindale Street
Penrith	Lot 15, DP 540945 7 Tindale Street
Penrith	Lot 18, DP 540945 Tindale Street
Penrith	Lot 102, DP 1031340 CT 2018 Union Lane
Penrith	Lot 7A, DP 160749 27 Union Road
Penrith	Lot 8A, DP 160749 29 Union Road
Penrith	Lot 1, DP 198589 59 Union Road
Penrith	Lot 1, DP 198591 19 Union Road
Penrith	Lot 1, DP 198650 61 Union Road
Penrith	Lot 1, DP 198656 17 Union Road
Penrith	Lot 1, DP 198659 23 Union Road
Penrith	Lot 1, DP 198661 25 Union Road
Penrith	Lot 1, DP 563349 33 Union Road
Penrith	Lot 1, Sec 2, DP 976320 15 Union Road
Penrith	Lot 4, Sec 2, DP 976320 21 Union Road
Penrith	Part Lot 10, Sec 2, DP 976320 37 Union Road
Penrith	Lot 11, Sec 2, DP 976320 37 Union Road

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 12, Sec 2, DP 976320 39 Union Road
Penrith	Lot 13, Sec 2, DP 976320 47 Union Road
Penrith	Lot 14, Sec 2, DP 976320 49 Union Road
Penrith	Lot 15, Sec 2, DP 976320 51 Union Road
Penrith	Lot 18, Sec 2, DP 976320 57 Union Road
Penrith	Lot 1, DP 198253 Woodriff Street
Penrith	Lot 2, DP 198253 Woodriff Street
Penrith	Lot 1, DP 198453 Woodriff Street
Penrith	Lot 2, DP 236062 18a Woodriff Street
Penrith	Lot 3, DP 236062 18a Woodriff Street
Penrith	Lot 5, DP 236062 Woodriff Street
Penrith	Lot 6, DP 236062 Woodriff Street
Penrith	Lot 7, DP 236062 Woodriff Street
Penrith	Lot 8, DP 236062 Woodriff Street
Penrith	Lot 9, DP 236062 Woodriff Street
Penrith	Lot 2, DP 546822 6a Woodriff Street
Penrith	Lot 3, DP 546822 6a Woodriff Street
Penrith	Lot 1, DP 859369 Woodriff Street
Penrith	Lot 10, DP 976320 Woodriff Street
Penrith	Lot 11, DP 976320 Woodriff Street
Penrith	Lot 16, DP 976320 Woodriff Street
Penrith	Lot 17, DP 976320 Woodriff Street
Penrith	Lot 1, DP 995047 Woodriff Street
Penrith	Lot 101, DP 1031340, CT 2018 21–25 Woodriff Street
Penrith	Lot 104, DP 1031340, CT 2018 27–33 Woodriff Street

Penrith City Centre Local Environmental Plan 2008

Classification and reclassification of public land

Schedule 4

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

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Penrith	Lot 903, DP 739989 2260–2266 Castlereagh Road
Penrith	Lot 3, DP 1051278 2260–2266 Castlereagh Road
Penrith	Lot 4, DP 1051278 2268–2270 Castlereagh Road
Penrith	Lot 5, DP 1051278 2272–2280 Castlereagh Road
Penrith	Lot 1, DP 198446 Derby Street
Penrith	Part Lot 90, DP 752044 Derby Street
Penrith	Lot 91, DP 752021 2 Henry Street
Penrith	Lot 432, DP 808043 13–23 Henry Street
Penrith	Part Lot 1, DP 1043486 2 Henry Street
Penrith	Lot 1, DP 198339 400–424 High Street
Penrith	Part Lot 90, DP 752021 641 High Street
Penrith	Lot 2, DP 1051278 631 High Street
Penrith	Lot 2, DP 580256 2 Memorial Avenue
Penrith	Lot B, DP 161052 108 Station Street
Penrith	Lot A, DP 161053 110 Station Street
Penrith	Lot 1, DP 198953 106 Station Street
Penrith	Lot 1, DP 198962 112 Station Street
Penrith	Lot 103, DP 1031340 CT 2018 86–96 Station Street
Penrith	Lot 16 Sec 2, DP 976320 53 Union Road

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 17 Sec 2, DP 976320 55 Union Road
Penrith	Part Lot 90, DP 752044 35–39 Woodriff Street

Penrith City Centre Local Environmental Plan 2008

Environmental Heritage

Schedule 5

Schedule 5 Environmental Heritage

(Clause 40)

Suburb	Item name	Lot and DP	Address	Significance	Item No
Penrith	Ferry Crossing		Nepean River— Between Ferry and Punt Roads	Local	1
Penrith	Penrith Infants Department (1884 Building)	Lot 1, DP 724160 and School Site	57 Henry Street	Local	2
Penrith	Former Methodist Church	Lot 22, DP 586469	74 Henry Street	Local	3
Penrith	Two Storey Brick Cottage (Building burnt down 12/12/92)	Part Lot 10, DP 849474	Part 5–17 Lawson Street	Local	4
Penrith	Former Station Master's House	Lot 31, DP 1086586	Jane Street	Local	5
Penrith	Former Penrith Council Chambers	Lot 112, DP 1028320	129–133 Henry Street	Local	6
Penrith	Memorial Park	Lot 1, DP 198339	Corner High and Woodriff Streets	Local	7
Penrith	Cram Place	Lot 11, DP 1013730	338–340 High Street	State	8
Penrith	St Stephens Church of England, Church Hall and Cemetery	Lots 101 and 102, DP 597910	258–280 High Street	State	9
Penrith	St Aubin's Terrace	Part Lot 3, DP 955837 and Part Lot 4, DP 972	255–265 High Street	Local	10
Penrith	Victorian Terrace	Lot 2, DP 224062	219–221 High Street	Local	11
Penrith	"Broadville"	Lot 910, DP 717451	98 Station Street	Local	12
Penrith	"Kentucky"	Lot 11, DP 715161	146 Station Street	Local	13

 Page 65

Penrith City Centre Local Environmental Plan 2008

Schedule 5 Environmental Heritage

Suburb	Item name	Lot and DP	Address	Significance	Item No
Penrith	Victorian House	Lot 80, DP 709313	148 Station Street	Local	14
Penrith	Explorers Memorial		Memorial Avenue	Local	15
Penrith	Former Pumping Station	Lot 1, DP 233967	20 Memorial Avenue	Local	16

Penrith City Centre Local Environmental Plan 2008

Dictionary

Dictionary

(Clause 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.

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.

amusement centre means a building or place (not being part of a hotel or pub) 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.

archaeological site means the site (as shown on the Heritage Map or listed in Schedule 5) of one or more relics.

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 for a maximum of 6 guests 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

biodiversity means biological diversity.

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

Note. The term is defined as follows:

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

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

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 serviced apartment, seniors housing or hotel accommodation.

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

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and which 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) or a temporary structure within the meaning of the *Local Government Act 1993*.

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

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 that 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.

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.

cemetery means a building or place for the interment of deceased persons or pets or their ashes, and includes a funeral chapel or crematorium.

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

Penrith City Centre Local Environmental Plan 2008

Dictionary

(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 family day care home or 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.

City Centre Development Control Plan means the *Penrith City Centre Development Control Plan*, as in force on the commencement of this Plan.

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).

Penrith City Centre Local Environmental Plan 2008

Dictionary

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 lake means a body of water specified in Schedule 1 to the *State Environmental Planning Policy 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 owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community.

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

Council means the Penrith City Council.

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

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) land 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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, which contributes to its heritage significance.

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.

drainage means any activity which 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.

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 college, that provides formal education and is constituted by or under an Act.

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

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall, amusement centre and the like.

environmental facility means a building or place which 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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.

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*.

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 significantly alter the shape, natural form or drainage of the land, or
- (b) a waste disposal landfill operation.

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

Note. The term is defined as follows:

Definition of “fish”

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

Penrith City Centre Local Environmental Plan 2008

Dictionary

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

floor space ratio means the ratio of the gross floor area of all buildings on a site to the site area.

Floor Space Ratio Map means the Penrith City Centre 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 shops, 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.

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 business 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 business 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 storey 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 within the storey, and
- (b) habitable rooms in a basement, and

Penrith City Centre Local Environmental Plan 2008

Dictionary

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

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

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

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.

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

health consulting rooms means 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

Height of Buildings Map means the Penrith City Centre 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.

heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on the Heritage Map (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

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 specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which is described in Schedule 5.

Heritage Map means the Penrith City Centre Local Environmental Plan 2008 Heritage Map.

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

home-based child care or **family day care home** 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 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

Penrith City Centre Local Environmental Plan 2008

Dictionary

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- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
 - (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
 - (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
 - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or
 - (f) the use of more than 30 square metres of floor area to carry on the business, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

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, or
- (f) the use of more than 50 square metres of floor area to carry on the light industry,

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

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

Penrith City Centre Local Environmental Plan 2008

Dictionary

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- (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.

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.

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

Penrith City Centre Local Environmental Plan 2008

Dictionary

- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

hotel accommodation means a building (whether or not a hotel within the meaning of the *Liquor Act 1982*) that provides tourist and visitor accommodation consisting of rooms or self-contained suites, but does not include backpackers' accommodation, a boarding house or bed and breakfast accommodation.

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.

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

Key Sites Map means the Penrith City Centre Local Environmental Plan 2008 Key Sites Map.

kiosk means retail premises with a gross floor area not exceeding 10 square metres and that provides food, light refreshments and other small convenience items such as newspapers, films and the like.

Land Application Map means the Penrith City Centre Local Environmental Plan 2008 Land Application Map.

Land Reservation Acquisition Map means the Penrith City Centre Local Environmental Plan 2008 Land Reservation Acquisition Map.

Land Zoning Map means the Penrith City Centre Local Environmental Plan 2008 Land Zoning Map.

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.

local heritage significance, in relation to a place, building, work, archaeological site, tree or precinct, means its heritage significance to an area.

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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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

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

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

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

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

mezzanine means an intermediate floor within a room.

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.

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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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.

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 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.

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.

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)

Penrith City Centre Local Environmental Plan 2008

Dictionary

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.

permanent group home means a dwelling:

- (a) used to provide a household environment for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies or a transitional group home.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

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*.

Penrith City Centre Local Environmental Plan 2008

Dictionary

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 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.

public authority has the same meaning as in the Act.

public entertainment has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public entertainment.

- (a) means entertainment to which admission may ordinarily be gained by members of the public on payment of money, or other consideration, as the price or condition of admission and an entertainment does not cease to be a public entertainment merely because:
 - (i) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or
 - (ii) such payment, or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the entertainment is granted or as the charge for the entertainment after admission to the entertainment has been granted, and
- (b) includes a public meeting.

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

Note. The term is defined as follows:

public meeting means an assembly held for a public purpose to which admission may ordinarily be gained by members of the public (whether or not on payment of money, or other consideration, as the price or condition of admission), but does not include an assembly held for the purpose of religious worship only.

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,

Penrith City Centre Local Environmental Plan 2008

Dictionary

(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 include 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).

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 Penrith, 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.

residential accommodation means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

Penrith City Centre Local Environmental Plan 2008

Dictionary

residential care facility means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

residential flat building means a building containing 3 or more dwellings.

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 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 accommodation, a pub, home occupation (sex services) or sex services premises.

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).

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

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.

sensitive coastal location means land in the coastal zone that is any of the following:

- (a) land within 100 metres above mean high water mark of the sea, a bay or an estuary,
- (b) a coastal lake,

Penrith City Centre Local Environmental Plan 2008

Dictionary

-
- (c) a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
 - (d) a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
 - (e) land declared as an aquatic reserve under the *Fisheries Management Act 1994*,
 - (f) land declared as a marine park under the *Marine Parks Act 1997*,
 - (g) land within 100 metres of any of the following:
 - (i) the water's edge of a coastal lake,
 - (ii) land to which paragraph (b), (c), (d) or (e) applies,
 - (iii) land reserved under the *National Parks and Wildlife Act 1974*,
 - (iv) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
 - (h) residential land (within the meaning of *State Environmental Planning Policy No 26—Littoral Rainforests*) that is within a distance of 100 metres from the outer edge of the heavy black line on the series of maps held in the Department of Planning and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)".

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.

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.

sewage treatment works means works or land used for the collection, treatment and disposal of sewage by or for a public authority.

sex services means sexual acts or sexual services in exchange for payment.

Penrith City Centre Local Environmental Plan 2008

Dictionary

sex services premises means a brothel, but does not include home occupation (sex services).

shop top housing means mixed use development comprising 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.

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.

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 this Act.

take away food or drink premises means food or drink premises that are predominantly used for the preparation and sale of food or drink for immediate consumption away from the premises.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or

Penrith City Centre Local Environmental Plan 2008

Dictionary

- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the *Local Government Act 1993*.

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*.

theatre or public hall has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

theatre or public hall means any building or part of a building that is used or intended to be used for the purpose of providing public entertainment or conducting public meetings.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

transitional group home means a dwelling:

- (a) used to provide temporary accommodation, for the purposes of relief or rehabilitation, for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, either with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies.

utility installation means a building, work or place used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

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.

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

waterbody (artificial) 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.

Penrith City Centre Local Environmental Plan 2008

Dictionary

waterbody (natural) 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 water body (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**ORDER**

I, the Minister for Planning, in pursuance of section 75B(1) of the Environmental Planning and Assessment Act 1979, do, by this my Order declare that the development described in Schedule 1 is a project to which Part 3A of that Act applies.

In my opinion the development described in Schedule 1 is of State or regional environmental planning significance.

Dated this 23rd day of January 2008.

FRANK SARTOR, M.P.,
Minister for Planning,
Sydney

SCHEDULE 1

Development by Country Energy for the purposes of upgrading the electricity supply network in the Lismore, Ballina, Ewingsdale and Mullumbimby areas to achieve a 132 kV network, located within the local government areas of Ballina, Lismore and Byron (the "Project"), and involving:

1. construction of the following substations:
 - (a) 132/11kV substation at Brunswick Heads;
 - (b) 132/11kV substation at Suffolk Park;
2. construction of the following transmissions lines:
 - (a) 132kV transmission line from the Mullumbimby to Ewingsdale 66kV transmission line to the Brunswick Heads substation;
 - (b) 132kV transmission line from the Lismore 132/66kV substation to join to the Alstonville to Ballina 66kV transmission line near Alstonville;
 - (c) 66kV transmission line from the Lismore South 66/11kV substation to the proposed Lismore University 66kV switching station;
 - (d) two underground 66kV lines from Lismore 132/66kV substation to Lismore South 66/11kV substation;
3. upgrade of the following substations including:
 - (a) Mullumbimby 132/66/11kV substation to 132/11kV;
 - (b) Lennox Head 66/11kV substation to 132/11kV;
 - (c) Lismore 132/66kV substation (construct additional switch bay for new feeder);
 - (d) Lismore South 66/11kV substation (construct additional switch bay for new feeder);
 - (e) Ballina 66/11kV substation to 132/66/11kV;
 - (f) Ewingsdale 66/11kV substation to 132/11kV;
4. upgrade, including any necessary realignments or deviations of the following transmission lines:
 - (a) 66kV transmission line from the Mullumbimby 132/66/11kV substation to the Ballina 66/11kV substation, to 132 kV; and
 - (b) 66kV transmission line from the Ballina 66/11kV substation to join to the new 132kV transmission line identified in 2(b) above (via either Teven or West Ballina), to 132kV.
5. Development for the purposes of the Project including development for any of the following purposes:
 - (a) construction (including demolition) and operation of the Project;
 - (b) demolition of the decommissioned Mullumbimby power station;
 - (c) demolition of the decommissioned Lismore power station;
 - (d) all associated or ancillary works, activities, uses, structures or facilities for the purposes of the Project;
 - (e) access for construction and operation of the Project, including access for pedestrians, public transport and vehicles;
 - (f) environmental management and pollution control for the Project;
 - (g) any realignment, modification, demolition or replacement of the existing transmission or distribution lines for the Project;

but not including preliminary works (including surveys, test drilling, test excavation and geotechnical investigations) associated with the design, or environmental assessments required for the Project prior to the commencement of construction.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

State Environmental Planning Policy (Major Projects) 2005

NOTICE

I, the Minister for Planning, pursuant to Clause 8(1A) of State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP), hereby give notice that I have received a proposal that Schedule 3 of the Major Projects SEPP be amended to add the site described in Schedule 1 of this Notice.

Dated this 20th day of December 2007.

FRANK SARTOR, M.P.,
Minister for Planning,
Sydney

SCHEDULE 1

The site Lot 1, DP 575674 known as Walsh Point, Kooragang Island, within the Newcastle Local Government Area.

Department of Primary Industries

STOCK DISEASES REGULATION 2004

Order pursuant to Clause 26

Exemptions from the Requirement for Goats to be Identified with a Permanent Identifier and for Information to be Provided on Arrival of Goats at a Property

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries do hereby:

1. Pursuant to Clause 26 of the Stock Diseases Regulation 2004 (“the Regulation”) and section 43 of the Interpretation Act 1987, revoke the Order titled “Order Pursuant to Clause 26” published in *New South Wales Government Gazette* No. 166 of 23 December 2005, at pages 11656-11657 and any order revived as a result of that revocation; and
2. Pursuant to Clause 26 of the Regulation, order that the person or class of persons specified in Schedule 1 are exempt from the provisions specified in that Schedule.

SCHEDULE 1

1. The owner or person in charge of goats is exempt from Clause 22 (1) of the Regulation where those persons are dealing with or handling a goat that is:

- 1.1 (dairy goats)
 - (i) a dairy goat, and
 - (iii) not sent to a saleyard for sale or to an abattoir for slaughter;

OR

- 1.2 (earless breeds)
 - (i) born without ears, and
 - (ii) not sent to a saleyard for sale or to an abattoir for slaughter;

OR

- 1.3 (Shows)
 - (i) sent directly from a property to an agricultural show, and
 - (ii) returned to the property within 14 days, provided that
 - (iii) information is given by the owner or person in charge of the goats and a record is made by the show society or show official as prescribed in clause 25H of the Regulation, and
 - (iv) the record is kept by the show society or show official for at least 2 years and produced for inspection if requested to do so by an inspector;

OR

- 1.4 (Animal exhibits)
 - (i) owned by a mobile exhibition or animal display establishment that is licensed under the Exhibited Animals Protection Act 1986, and
 - (ii) not sent to a saleyard for sale or to an abattoir for slaughter, and
 - (iii) not sold, except to another licensed mobile exhibition or animal display establishment;

OR

- 1.5 (Short term local movements)
 - (i) moved to a contiguous property and returned to the original property within 2 days;

OR

- 1.6 (Unsuitable facilities)
 - (i) located on a property where it is not practical to attach a permanent identifier, and
 - (ii) moved directly from the property to another place in accordance with the approval of a district veterinarian or a ranger, and
 - (iii) identified after arrival at the other place with a permanent identifier in accordance with clause 21 before the stock is sold or slaughtered, or within 2 days of arrival (except a kid that are both unweaned and unmarked which must be identified at the time of weaning or marking), or before the goat leaves that place, whichever is the sooner;

OR

- 1.7 (Emergencies)
 - (i) located on a property (the ‘previous property’) that is affected by an emergency that necessitates the urgent movement of stock from the property, and
 - (ii) identified after arrival at the other place with a permanent identifier in accordance with clause 21 before the stock is sold or slaughtered, or before the stock leaves that place unless the stock is returned directly to the previous property;

OR

- 1.8 (Feral goats for restocking)
 - (i) a feral goat which is moved from the property on which it is captured to a depot, and
 - (ii) identified with a post-breeder tag in accordance with clause 21 before the goat is moved from the depot to another property for the purposes of restocking.

2. The owners or persons in charge of goats and the owners or persons in charge of an abattoir are exempt from clause 22(1) of the Regulation where:

- 2.1 (Over the hooks)
 - (i) the goats are moved from the property on which they are born, directly or via a depot, to an abattoir for slaughter, and
 - (ii) the owner of the goats is paid by the processor on the basis of weight and grade of carcass (‘over the hooks’);

OR

- 2.2 (Feral goats for slaughter)
 - (i) the goats are feral goats which are moved from the property on which they are captured, directly or via a depot, to an abattoir for slaughter;

OR

- 2.3 (Private kills)
 - (i) a goat that is a single animal is moved directly from a property to an abattoir for slaughter, and

- (ii) the entire carcass is returned to the owner of the animal for their personal consumption or use, or any parts not returned are disposed in a manner that precludes their use for human consumption;

OR

2.4 (Knackeries)

- (i) the goat is sent to an abattoir that is licensed as a knackery in accordance with the *Food Act 2003*, and
- (ii) the records required under the *Food Regulation 2004* Schedule 4 Clause 2 are maintained.

Note: Notwithstanding the exemptions in Schedule 1 above, all goats are subject to the information provisions contained in Clauses 25F, 25G and 25H of the Regulation.

Definitions:

agricultural show means an event that is run by a show society.

dairy goat means a goat of a breed recognised by the Dairy Goat Society of Australia Limited.

depot means a property that is used to aggregate feral goats prior to slaughter and that is fully accredited under the Livestock Production Assurance (LPA) program managed by Meat and Livestock Australia (MLA).

district veterinarian or a ranger means a person employed in either capacity in accordance with section 42 of the Rural Lands Protection Act 1998 and who is currently working for a Rural Lands Protection Board.

feral goat means a goat that has been captured from a wild state and has not been born as a result of a managed breeding program.

show official means a person that is appointed as or performing the function of the secretary or chief steward of an agricultural show.

show society means a body that is affiliated with the Royal Agricultural Society of New South Wales or the Agricultural Societies Council of New South Wales.

This Order expires on 31 December 2008.

Dated this 24 day of January 2008.

R. F. SHELDRAKE,
Director-General,
NSW Department of Primary Industries

2. Pursuant to Clause 13A(2) of the Regulation, order that the information required to be provided to a person other than the authorised administrator under Part 3 of the Regulation must be provided in the form specified in the Schedule below.

SCHEDULE

- (i) A transported stock statement that is approved in accordance with Part 10A of the Rural Lands Protection Act 1998, or
- (ii) a national vendor declaration and waybill that is approved from time to time by SAFEMEAT, or
- (iii) a health statement that is approved for use under the Stock Diseases Act 1923 or that is published on the NSW Department of Primary Industries web site at the time or during the six months preceding the commencement of the movement of the stock, or
- (iv) a post sale summary that contains the information prescribed in clause 25F(1) of the Regulation and that has been provided in accordance with clause 25F(4) of the Regulation, or
- (v) an exhibitor application or registration form that is provided to a show society or show official and which contains the information prescribed in clause 25H(1) of the Regulation, or
- (vi) a stock permit that has been issued under section 101 of the Rural Lands Protection Act 1998, or
- (vii) a permit that has been issued under section 7(6) of the Stock Diseases Act 1923.

Note: The Department of Primary Industries web site is www.dpi.nsw.gov.au.

Definitions:

agricultural show means an event that is run by a show society.

show official means a person that is appointed as or performing the function of the secretary or chief steward of an agricultural show.

show society means a body that is affiliated with the Royal Agricultural Society of New South Wales or the Agricultural Societies Council of New South Wales.

Dated this 24 day of January 2008.

R. F. SHELDRAKE,
Director-General,
NSW Department of Primary Industries

STOCK DISEASES REGULATION 2004

Order pursuant to Clause 13A(2)

Forms to be Used to Provide Information to Persons other than the Authorised Administrator

I, RICHARD FREDERICK SHELDRAKE, Director-General of the NSW Department of Primary Industries do hereby:

1. Pursuant to Clause 13A(2) of the Stock Diseases Regulation 2004 ("the Regulation") and section 43 of the Interpretation Act 1987, revoke the Order titled "Order Pursuant to Clause 13A(2)" published in *New South Wales Government Gazette* No. 166 of 23 December 2005, at pages 11658-11659 and any order revived as a result of that revocation; and

MINERAL RESOURCES

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATIONS

(T08-0027)

No. 3427, AUSTRALIAN MINERAL MINES PTY LTD (ACN 095 728 831), area of 1 unit, for Group 3, dated 16 January 2008. (Armidale Mining Division).

(T08-0028)

No. 3428, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 13 units, for Group 1, dated 16 January 2008. (Broken Hill Mining Division).

(T08-0029)

No. 3429, QUIDONG MINERALS PTY LTD (ACN 121 671 323), area of 66 units, for Group 1, dated 17 January 2008. (Sydney Mining Division).

(T08-0030)

No. 3430, CENTRAL WEST GOLD NL (ACN 003 078 591), area of 6 units, for Group 1, dated 17 January 2008. (Sydney Mining Division).

(T08-0031)

No. 3431, CENTAURUS RESOURCES LIMITED (ACN 120 281 969), area of 43 units, for Group 1, dated 21 January 2008. (Orange Mining Division).

(T08-0032)

No. 3432, IRONBARK GOLD LIMITED (ACN 118 751 027), area of 8 units, for Group 1, dated 21 January 2008. (Armidale Mining Division).

(T08-0033)

No. 3433, PLATSEARCH NL (ACN 003 254 395) and EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), area of 32 units, for Group 1, dated 23 January 2008. (Broken Hill Mining Division).

(T08-0034)

No. 3434, AUSTRALIAN ASIAN PACIFIC MINES PTY LTD (ACN 128 772 887), area of 82 units, for Group 1, dated 23 January 2008. (Cobar Mining Division).

MINING LEASE APPLICATIONS

(T08-0002)

No. 312, MOOLARBEN COAL MINES PTY LIMITED (ACN 108 601 672), area of about 903.2 hectares, to mine for coal, dated 8 January 2008. (Orange Mining Division).

(T08-0003)

No. 313, MOOLARBEN COAL MINES PTY LIMITED (ACN 108 601 672), area of about 85.5 hectares, to mine for coal, dated 8 January 2008. (Orange Mining Division).

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATIONS

(06-3841)

No. 2762, now Exploration Licence No. 6964, DONALDSON COAL PTY LTD (ACN 073 088 945), County of Northumberland, Map Sheet (9232), area of 1255 hectares, for Group 9, dated 10 December 2007, for a term until 10 December 2012.

(07-160)

No. 3055, now Exploration Licence No. 7035, Mario PAGNON, County of Cooper, Map Sheet (8130), area of 6 units, for Group 1, dated 23 January 2008, for a term until 23 January 2010.

(07-195)

No. 3090, now Exploration Licence No. 7036, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), County of Gordon, Map Sheet (8632), area of 134 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-196)

No. 3091, now Exploration Licence No. 7037, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Blaxland, Cunningham, Flinders and Mouramba, Map Sheets (8133, 8232, 8233), area of 64 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-197)

No. 3092, now Exploration Licence No. 7038, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Cowper and Yanda, Map Sheets (8035, 8036, 8135, 8136), area of 82 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-198)

No. 3093, now Exploration Licence No. 7039, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Cunningham and Kennedy, Map Sheets (8332, 8432), area of 79 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-199)

No. 3094, now Exploration Licence No. 7040, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Cowper and Yanda, Map Sheet (8036), area of 38 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-200)

No. 3095, now Exploration Licence No. 7041, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Flinders and Oxley, Map Sheets (8234, 8334), area of 89 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-202)

No. 3097, now Exploration Licence No. 7042, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), County of Cowper, Map Sheet (8136), area of 100 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-205)

No. 3100, now Exploration Licence No. 7043, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), County of Flinders, Map Sheets (8233, 8234), area of 66 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-231)

No. 3126, now Exploration Licence No. 7044, CRYSTAL MINERALS PTY LTD (ACN 121 287 563), Counties of Cowper and Yanda, Map Sheet (8036), area of 62 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-244)

No. 3141, now Exploration Licence No. 7024, STANDARD MINES PTY LTD (ACN 125 577 451), County of Perry, Map Sheet (7431), area of 53 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-249)

No. 3146, now Exploration Licence No. 7025, STANDARD MINES PTY LTD (ACN 125 577 451), County of Livingstone, Map Sheet (7534), area of 9 units, for Group 1, dated 22 January 2008, for a term until 22 January, 2010.

(07-250)

No. 3147, now Exploration Licence No. 7026, STANDARD MINES PTY LTD (ACN 125 577 451), County of Young, Map Sheets (7535, 7635), area of 16 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-251)

No. 3148, now Exploration Licence No. 7027, STANDARD MINES PTY LTD (ACN 125 577 451), County of Killara, Map Sheet (7635), area of 9 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-252)

No. 3149, now Exploration Licence No. 7045, STANDARD MINES PTY LTD (ACN 125 577 451), County of Gipps, Map Sheets (8330, 8331), area of 110 units, for Group 1, dated 24 January 2008, for a term until 24 January 2010.

(07-253)

No. 3150, now Exploration Licence No. 7028, STANDARD MINES PTY LTD (ACN 125 577 451), Counties of Young and Yungnulgra, Map Sheet (7535), area of 8 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-255)

No. 3152, now Exploration Licence No. 7029, STANDARD MINES PTY LTD (ACN 125 577 451), Counties of Thoulcanna and Ularara, Map Sheets (7638, 7738), area of 27 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-256)

No. 3153, now Exploration Licence No. 7030, STANDARD MINES PTY LTD (ACN 125 577 451), County of Thoulcanna, Map Sheet (7739), area of 4 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-261)

No. 3158, now Exploration Licence No. 7031, STANDARD MINES PTY LTD (ACN 125 577 451), County of Poole, Map Sheets (7139, 7239), area of 322 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-265)

No. 3162, now Exploration Licence No. 7032, STANDARD MINES PTY LTD (ACN 125 577 451), County of Gunderbooka, Map Sheet (8038), area of 9 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-267)

No. 3164, now Exploration Licence No. 7033, STANDARD MINES PTY LTD (ACN 125 577 451), County of Yanda, Map Sheet (7936), area of 49 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

(07-290)

No. 3187, now Exploration Licence No. 7003, ORESEARCH PTY LTD (ACN 125 825 603), Counties of Barrona and Irrara, Map Sheet (7938), area of 89 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-292)

No. 3189, now Exploration Licence No. 7004, ORESEARCH PTY LTD (ACN 125 825 603), Counties of Barrona and Landsborough, Map Sheets (7837, 7937), area of 86 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-293)

No. 3190, now Exploration Licence No. 7005, ORESEARCH PTY LTD (ACN 125 825 603), Counties of Landsborough and Yanda, Map Sheet (7937), area of 29 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-294)

No. 3191, now Exploration Licence No. 7006, ORESEARCH PTY LTD (ACN 125 825 603), County of Barrona, Map Sheets (7737, 7837, 7838), area of 29 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-295)

No. 3192, now Exploration Licence No. 7007, ORESEARCH PTY LTD (ACN 125 825 603), County of Barrona, Map Sheet (7838), area of 42 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-296)

No. 3193, now Exploration Licence No. 7008, ORESEARCH PTY LTD (ACN 125 825 603), County of Barrona, Map Sheets (7838, 7938), area of 51 units, for Group 1, dated 9 January 2008, for a term until 9 January 2010.

(07-324)

No. 3223, now Exploration Licence No. 7012, Annabel Mary WALSH, County of Tara, Map Sheet (7229), area of 3 units, for Group 2, dated 16 January 2008, for a term until 16 January 2010.

(07-330)

No. 3229, now Exploration Licence No. 6924, NICKEL ONLINE PTY LTD (ACN 126 718 456), County of Macquarie, Map Sheets (9434, 9435), area of 30 units, for Group 1, dated 31 October 2007, for a term until 31 October 2009.

(07-356)

No. 3254, now Exploration Licence No. 6994, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), County of Blaxland, Map Sheet (8131), area of 61 units, for Group 1, dated 21 December 2007, for a term until 21 December 2009.

(07-357)

No. 3255, now Exploration Licence No. 6995, GOLDEN CROSS OPERATIONS PTY LTD (ACN 050 212 827), County of Blaxland, Map Sheet (8132), area of 80 units, for Group 1, dated 21 December 2007, for a term until 21 December 2009.

(07-378)

No. 3275, now Exploration Licence No. 6996, HILL END GOLD LIMITED (ACN 072 692 365), County of Wellington, Map Sheets (8732, 8832), area of 150 units, for Group 1, dated 21 December 2007, for a term until 21 December 2009. As a result of the grant of this title, Exploration Licence No. 5952 and Exploration Licence No. 6872 have ceased to have effect.

(07-395)

No. 3292, now Exploration Licence No. 7010, BALRANALD GYPSUM PTY LTD (ACN 081 196 947), County of Wakool, Map Sheet (7628), area of 10 units, for Group 2, dated 11 January 2008, for a term until 11 January 2010.

(07-398)

No. 3295, now Exploration Licence No. 7009, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), County of Yancowinna, Map Sheet (7134), area of 17 units, for Group 1, dated 10 January 2008, for a term until 10 January 2010.

(T07-0454)

No. 3313, now Exploration Licence No. 7011, CONRAD SILVER MINES PTY LTD (ACN 106 967 506), Counties of Burnett and Murchison, Map Sheet (9038), area of 100 units, for Group 1, dated 16 January 2008, for a term until 16 January 2010.

(T07-0466)

No. 3325, now Exploration Licence No. 7034, GREYSTOKE MINES PTY LTD (ACN 125 517 259), County of Mootwingee, Map Sheet (7337), area of 16 units, for Group 1, dated 22 January 2008, for a term until 22 January 2010.

MINING LEASE APPLICATIONS

(06-5315)

Armidale No. 288, now Mining Lease No. 1609 (Act 1992), NARRABRI COAL PTY LTD (ACN 107 813 963), Parish of Gorman, County of White; Parish of Milner, County of White and Parish of Turrawan, County of White, Map Sheet (8836-1-N, 8837-2-S), area of 5298 hectares, to mine for coal, dated 18 January 2008, for a term until 18 January 2029. As a result of the grant of this title, Authorisation No. 216 and Exploration Licence No. 6243 have partly ceased to have effect.

(06-7862)

Singleton No. 294, now Mining Lease No. 1608 (Act 1992), XSTRATA MT OWEN PTY LIMITED (ACN 003 827 361), Parish of Liddell, County of Durham, Map Sheet (9133-3-S), area of 30.17 hectares, to mine for coal, dated 19 December 2007, for a term until 19 December 2028. As a result of the grant of this title, Exploration Licence No. 6254 has partly ceased to have effect.

(07-1369)

Orange No. 301, now Mining Lease No. 1607 (Act 1992), THE WALLERAWANG COLLIERIES LTD (ACN 000 001 436), Parish of Cox, County of Cook, Map Sheet (8931-3-N), area of 2503 square metres, to mine for coal, dated 8 January 2008, for a term until 8 January 2018.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following application has been refused:

EXPLORATION LICENCE APPLICATION

(06-7081)

No. 2949, PANGAEA MINERALS PTY LIMITED (ACN 120 631 316), County of Killara and County of Landsborough, Map Sheets (7636, 7736, 7836). Refusal took effect on 17 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following application has been withdrawn:

EXPLORATION LICENCE APPLICATION

(07-0291)

No. 3188, Anthony Gilbert MARTIN, County of Auckland and County of Wellesley, Map Sheets (8723, 8724, 8823, 8824). Withdrawal took effect on 10 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(T93-0860)

Exploration Licence No. 4642, Peter Warren ENGLISH, area of 1 unit. Application for renewal received 17 January 2008.

(C95-2367)

Exploration Licence No. 4948, DIRECTOR GENERAL NSW DEPT OF PRIMARY INDUSTRIES ON BEHALF OF THE CROWN, area of 7898 hectares. Application for renewal received 18 January 2008.

(L98-0254)

Exploration Licence No. 5560, GEODYNAMICS LIMITED (ACN 095 006 090), area of 18 units. Application for renewal received 22 January 2008.

(08-845)

Exploration Licence No. 5697, CAPITAL MINING LIMITED (ACN 104 551 171), area of 24 units. Application for renewal received 25 January 2008.

(08-813)

Exploration Licence No. 5886, GEODYNAMICS LIMITED (ACN 095 006 090), area of 46 units. Application for renewal received 22 January 2008.

(T03-0858)

Exploration Licence No. 6196, MALACHITE RESOURCES NL (ACN 075 613 268), area of 37 units. Application for renewal received 23 January 2008.

(T03-0975)

Exploration Licence No. 6202, Colin Laurence PLUMRIDGE and Joy Elizabeth PLUMRIDGE, area of 5 units. Application for renewal received 17 January 2008.

(T03-1003)

Exploration Licence No. 6209, AJAX JOINERY PTY LIMITED (ACN 000 195 228), area of 3 units. Application for renewal received 16 January 2008.

(T04-0626)

Exploration Licence No. 6379, AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), area of 2 units. Application for renewal received 20 December 2007.

(04-0594)

Exploration Licence No. 6380, MITHRIL RESOURCES LTD (ACN 099 883 922), area of 82 units. Application for renewal received 22 January 2008.

(05-229)

Exploration Licence No. 6508, BLUE CIRCLE SOUTHERN CEMENT LTD (ACN 008 528 523), area of 74 units. Application for renewal received 22 January 2008.

(05-200)

Exploration Licence No. 6509, AUZEX RESOURCES LIMITED (ACN 106 444 606), area of 24 units. Application for renewal received 22 January 2008.

(05-273)

Exploration Licence No. 6510, AUZEX RESOURCES LIMITED (ACN 106 444 606), area of 8 units. Application for renewal received 22 January 2008.

(05-306)

Exploration Licence No. 6516, NEW SOUTH RESOURCES LIMITED (ACN 119557416), area of 6 units. Application for renewal received 25 January 2008.

(05-254)

Exploration Licence No. 6520, AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), area of 4 units. Application for renewal received 17 January 2008.

(05-263)

Exploration Licence No. 6525, NEW SOUTH RESOURCES LIMITED (ACN 119557416), area of 89 units. Application for renewal received 25 January 2008.

(05-271)

Exploration Licence No. 6532, ICON RESOURCES LTD (ACN 115 009 106), area of 22 units. Application for renewal received 17 January 2008.

(04-0576)

Exploration Licence No. 6540, UNIMIN AUSTRALIA LIMITED (ACN 000 971 844), area of 1 unit. Application for renewal received 25 January 2008.

(T08-0575)

Gold Lease No. 5845 (Act 1906), STRAITS (HILLGROVE) GOLD PTY LTD (ACN 102 660 506), area of 4.047 hectares. Application for renewal received 16 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(07-1395)

Exploration Licence No. 1590, BARRICK AUSTRALIA LIMITED (ACN 007 857 598) and AURIONGOLD EXPLORATION PTY LIMITED (ACN 067 813 932), Counties of Bland and Gipps, Map Sheet (8330), area of 24 units, for a further term until 12 March 2009. Renewal effective on and from 20 January 2008.

(T82-1105)

Exploration Licence No. 1999, TRIAKO RESOURCES LIMITED (ACN 008 498 119), Counties of Cunningham and Kennedy, Map Sheets (8232, 8332), area of 17 units, for a further term until 3 March 2012. Renewal effective on and from 20 January 2008.

(T92-0436)

Exploration Licence No. 4512, WESTERN PLAINS RESOURCES LTD (ACN 109 426 502), County of Cunningham, Map Sheets (8432), area of 27 units, for a further term until 1 June 2009. Renewal effective on and from 20 January 2008.

(06-7006)

Exploration Licence No. 5544, ILUKA RESOURCES LIMITED (ACN 008 675 018), County of Wentworth, Map Sheet (7330), area of 66 units, for a further term until 29 November 2009. Renewal effective on and from 23 January 2008.

(T98-1166)

Exploration Licence No. 5565, RIMFIRE PACIFIC MINING NL (ACN 006 911 744), County of Cunningham, Map Sheets (8331, 8332, 8431, 8432), area of 18 units, for a further term until 23 March 2009. Renewal effective on and from 20 January 2008.

(T01-0097)

Exploration Licence No. 5874, ENDEAVOUR MINERALS PTY LTD (ACN 063 725 708), Counties of Bligh and Wellington, Map Sheet (8732), area of 3 units, for a further term until 2 July 2009. Renewal effective on and from 20 January 2008.

(T03-0022)

Exploration Licence No. 6122, INFERUS RESOURCES PTY LTD (ACN 119 368 160), Counties of Forbes and Monteagle, Map Sheet (8530), area of 84 units, for a further term until 31 August 2009. Renewal effective on and from 20 January 2008.

(T04-0273)

Exploration Licence No. 6127, PEAK GOLD MINES PTY LIMITED (ACN 001 533 777) and LYDAIL PTY LTD (ACN 076 772 275), Counties of Mouramba and Robinson, Map Sheets (8034, 8133, 8134), area of 98 units, for a further term until 23 September 2009. Renewal effective on and from 20 January 2008.

(T03-0086)

Exploration Licence No. 6154, TRIAKO RESOURCES LIMITED (ACN 008 498 119), County of Mouramba, Map Sheet (8133), area of 4 units, for a further term until 16 November 2009. Renewal effective on and from 14 January 2008.

(04-626)

Exploration Licence No. 6379, AUSTRALIAN DOLOMITE COMPANY PTY LIMITED (ACN 000 810 551), County of Georgiana, Map Sheet (8730), area of 2 units, for a further term until 16 February 2008. Renewal effective on and from 7 December 2007.

(05-204)

Exploration Licence No. 6452, DRAKE RESOURCES LTD (ACN 108 560 069), County of Buller, Map Sheet (9340), area of 50 units, for a further term until 21 July 2009. Renewal effective on and from 18 January 2008.

(05-223)

Exploration Licence No. 6487, ADE ENVIRONMENTAL PTY LTD (ACN 111 779 232), Counties of Darling and Murchison, Map Sheet (9037), area of 29 units, for a further term until 27 November 2009. Renewal effective on and from 24 January 2008.

(05-245)

Exploration Licence No. 6493, TRI ORIGIN MINING PTY LIMITED (ACN 115 529 112), Counties of Argyle and Murray, Map Sheets (8727, 8728, 8827, 8828), area of 37 units, for a further term until 7 December 2009. Renewal effective on and from 18 January 2008.

(C96-2321)

Mining Lease No. 1406 (Act 1992), NOVACOAL AUSTRALIA PTY LIMITED (ACN 000 013 990), Parish of Ravensworth, County of Durham, Map Sheet (9033-2-S), area of 73.9 hectares, for a further term until 10 February 2027. Renewal effective on and from 15 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

REFUSAL OF APPLICATIONS FOR RENEWAL

NOTICE is given that the applications for renewal in respect of the following authorities have been refused:

(T99-0176)

Mineral Claim No. 275 (Act 1992), Bruce JORDAN, Parish of Willyeroo, County of Irrara, Map Sheet (7938-1-S), area of 1.95 hectares. The authority ceased to have effect on 17 January 2008.

(T99-0177)

Mineral Claim No. 276 (Act 1992), Bruce JORDAN, Parish of Willyeroo, County of Irrara, Map Sheet (7938-1-S), area of 2 hectares. The authority ceased to have effect on 17 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

WITHDRAWAL OF APPLICATIONS FOR RENEWAL

NOTICE is given that the applications for renewal in respect of the following authorities have been withdrawn:

(06-499)

Consolidated Coal Lease No. 731 (Act 1973), THE NEWCASTLE WALLSEND COAL CO PTY LTD (ACN 000 245 901), Parish of Hexham, County of Northumberland, Map Sheets (9232-3-N, 9232-3-S), area of 94 hectares. The authority ceased to have effect on 23 January 2008.

(C03-0064)

Coal Lease No. 362 (Act 1973), THE NEWCASTLE WALLSEND COAL CO PTY LTD (ACN 000 245 901), Parish of Hexham, County of Northumberland, Map Sheet (9232-3-S), area of 78.01 hectares. The authority ceased to have effect on 23 January 2008.

(T00-0792)

Mineral Lease No. 2838 (Act 1906), KANDOS COLLIERIES PTY LIMITED, Parish of Rylstone, County of Roxburgh, Map Sheets (8832-2-N), area of 32.37 hectares. The authority ceased to have effect on 18 December 2007.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS

NOTICE is given that the following authorities have been cancelled:

(04-4065)

Exploration Licence No. 5898, SPECIALTY COAL PTY LTD (ACN 87 095 226 181), County of Durham, Map Sheet (9132), area of 634 hectares. Cancellation took effect on 24 January 2008.

(06-4175)

Exploration Licence No. 6701, MALACHITE RESOURCES NL (ACN 075 613 268), County of Buller and County of Drake, Map Sheet (9340, 9440), area of 84 units. Cancellation took effect on 22 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

PART CANCELLATION

NOTICE is given that the following authority has been cancelled in part:

(04-0752)

Exploration Licence No. 6288, MOOLARBEN COAL MINES PTY LIMITED (ACN 108 601 672) and SOJITZ MOOLARBEN RESOURCES PTY LTD (ACN 126 287 027).

Description of area cancelled:

An area of 15.93 square kilometres to a depth of 900 metres below AHD has been cancelled. For further information contact Titles Branch.

Part cancellation took effect on 20 December 2007.

The authority now embraces an area of 110 square kilometres.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

TRANSFER

(T99-0447)

Mining Lease No. 811 (Act 1973), formerly held by Kevin Raymond BARKER has been transferred to AUGUR RESOURCES LTD (ACN 106 879 690). The transfer was registered on 23 January 2008.

IAN MACDONALD, M.L.C.,
Minister for Mineral Resources

Roads and Traffic Authority

ROADS TRANSPORT (GENERAL) ACT 2005

Notice under Clause 20 of the Road Transport (Mass, Loading and Access) Regulation 2005

BATHURST REGIONAL COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading and Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

DAVID JOHN SHERLEY,
General Manager,
Bathurst Regional Council
(by delegation from the Minister for Roads)
January 2008

SCHEDULE

1. Citation

This Notice may be cited as the Bathurst Regional Council B-Doubles Notice No. 1/ 2008.

2. Commencement

This Notice takes effect on the date of Gazettal.

3. Effect

This Notice remains in force from Tuesday, 5 February 2008, until Monday, 11 February 2008, unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles that comply with Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Bathurst Regional Council.

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>
25.	000.	Havannah Street.	Rocket Street.	Panorama Avenue.
25.	000.	Panorama Avenue.	Havannah Street.	Pit Straight.
25.	000.	Pit Straight.	Panorama Avenue.	Mountain Straight.
25.	000.	Mountain Straight.	Pit Straight.	Pit Complex.

ROAD TRANSPORT (GENERAL) ACT 2005

Notice under Clause 20 of the Road Transport (Mass, Loading and Access) Regulation 2005

WAGGA WAGGA CITY COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which 25metre B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

MICHAEL McMAHON,
Acting General Manager,
Wagga Wagga City Council
(by delegation from the Minister for Roads)

SCHEDULE
1. Citation

This Notice may be cited as Wagga Wagga City Council 25 Metre B-Double route Notice No. 1/2008.

2. Commencement

This Notice takes effect on the date of gazettal.

3. Effect

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

4. Application

This Notice applies to those 25 metre B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>
25.	000.	Tasman Road, Wagga Wagga.	Edison Road.	Copland Street.

ROADS ACT 1993

Notice of Dedication of Land as Public Road at
Charlestown in the Lake Macquarie City Council area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

T D Craig
Manager, Compulsory Acquisition & Road Dedication
Roads and Traffic Authority of New South Wales

—————
SCHEDULE

ALL those pieces or parcels of land situated in the Lake Macquarie City Council area, Parish of Kahibah and County of Northumberland, shown as:

Lot 1 Deposited Plan 1121628;

Lots 13 to 16 inclusive Deposited Plan 255330;

Lot 1 Deposited Plan 207113;

Lot 1 Deposited Plan 392760;

Lot 1 Deposited Plan 410157;

Lot 1 Deposited Plan 207747;

Lot 1 Deposited Plan 1121592;

Lot 1 Deposited Plan 406317;

Lot 1 Deposited Plan 345344;

Lot 1 Deposited Plan 345345;

Lot 1 Deposited Plan 1121574;

Lot 1 Deposited Plan 388799;

Lot C Deposited Plan 394585;

Lot 1 Deposited Plan 446010;

Lot 1 Deposited Plan 439334;

Lot 1 Deposited Plan 436118; and

Lot 1 Deposited Plan 378865.

(RTA Papers: 10/252.1230)

ROADS ACT 1993**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Cangai in the
Clarence Valley Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T D Craig
Manager, Compulsory Acquisition & Road Dedication
Roads and Traffic Authority of New South Wales

—————
SCHEDULE

ALL that piece or parcel of Crown land situated in the Clarence Valley Council area, Parish of Dandahra and County of Drake, shown as Lot 83 Deposited Plan 1108540, being part of the land in Reserve from Conditional Sale notified in Government Gazette No 18 of 17 January 1873 on page 160.

(RTA Papers FPP 7M2287; RO 12/86.158)

ROADS ACT 1993

Notice of Dedication of Land as Public Road
at Curl Curl, Forestville, Narrabeen, Belrose and Terrey Hills in the Warringah Council area

THE Roads and Traffic Authority of New South Wales, by its delegate, dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

Manager, Compulsory Acquisition & Road Dedication,
Roads and Traffic Authority of New South Wales.

SCHEDULE

All those pieces or parcels of land situated in the Warringah Council area, Parish of Manly Cove and Broken Bay, County of Cumberland, shown as:

<u>Description of Land</u>		<u>Title</u>			
1 rood, 19 ³ / ₄ perches	shown on RTA Plan No 0530.479.SS.0107	being part of Lots 28, 29, 30 & 62	Section 2	DP 987	C.T. Vol. 1843 Fol. 7
1 ¹ / ₂ perches	shown on RTA Plan No 0530.479.SS.0107	being part of Lot 63	Section 2	DP 987	C.T. Vol. 690 Fol. 152
18 ³ / ₄ perches	shown on RTA Plan No 0530.479.SS.0107	being part of Lot 61	Section 2	DP 987	C.T. Vol. 648 Fol. 38
12 ¹ / ₄ perches	shown on RTA Plan No 0530.479.SS.0107	being part of Lots 59 & 60	Section 2	DP 987	C.T. Vol. 695 Fol. 127
³ / ₄ perch	shown on RTA Plan No 0530.479.SS.0111	being part of Lot 58	Section 2	DP 987	C.T. Vol. 3181 Fol. 121
		Lot 1		DP 390941	C.T. Vol. 3342 Fol. 223
		Lot 1		DP 390942	C.T. Vol. 3709 Fol. 27
		Lot 1		DP 393757	Folio Id. 1/393757
29 sq. ft	shown on DP435440	being part of Lot 2		DP 12724	C.T. Vol. 4565 Fol. 42
¹ / ₂ perch	shown on DP435440	being part of Lot 1		DP 12724	C.T. Vol. 3900 Fol. 62
9 ¹ / ₂ perches	shown on DP435440	being part of Lots 50 & 51		DP 5539	C.T. Vol. 3228 Fol. 138
1 ¹ / ₄ perches	shown on DP435061	being part of Lots 50 & 51		DP 5539	C.T. Vol. 3228 Fol. 138
¹ / ₈ perch	shown on RTA Plan No 0530.479.SS.0102	being part of Lot 49		DP 5539	C.T. Vol. 3805 Fol. 7
3 ¹ / ₄ perches	shown on DP435440	being part of Lot 49		DP 5539	C.T. Vol. 3805 Fol. 7
2 ¹ / ₄ perches	shown on DP435440	being part of Lot 48		DP 5539	C.T. Vol. 3037 Fol. 211
1 ¹ / ₄ perches	shown on DP435440	being part of Lot 47		DP 5539	C.T. Vol. 2752 Fol. 87
³ / ₄ perch	shown on DP435440	being part of Lot 46		DP 5539	C.T. Vol. 2310 Fol. 26
¹ / ₄ perch	shown on DP435440	being part of Lots 44 & 45		DP 5539	C.T. Vol. 2314 Fol. 81
1 perch	shown on DP405158	being part of Lot 62		DP 6260	C.T. Vol. 3882 Fol. 152
¹ / ₂ perch	shown on DP396291	being part of Lot 21		DP 5539	C.T. Vol. 2894 Fol. 8
³ / ₄ perch	shown on DP441337	being part of Lots 2 & 3		DP 15208	C.T. Vol. 6184 Fol's. 88 to 91 inclusive.
		Lot A		DP 383418	C.T. Vol. 6310 Fol. 48
18 ³ / ₄ perches	shown on DP 436037				C.T. Vol. 5431 Fol. 215
4 ³ / ₄ perches	shown on DP 436037				C.T. Vol. 6310 Fol. 48
		Lot 1		DP 383705	C.T. Vol. 5431 Fol. 215
7 ¹ / ₄ perches	shown on RTA Plan No 0328.479.SS.0161				C.T. Vol. 1594 Fol. 16
2.8 m ²	shown on RTA Plan No 0164.479.SS.0570	being part of Lot 16		DP 7190	C.T. Vol. 3879 Fol. 120
		Lot 8		DP 809308	Resumed by notification in Govt. Gaz. of 17 May 1991, Fol.3801
		Lot 10		DP 700457	Folio Id. 10/700457

(RTA Papers: FPP 8M129; RO 479.11056)

Department of Water and Energy

WATER ACT 1912

AN application for a licence under section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

MULPHA FKP PTY LIMITED for an overshot dam and pump on Strangers Creek (2nd order) on Lot 102, DP 1065520, Parish Castle Hill, County Cumberland, for the conservation of water and water supply for recreation purposes (landscaping) (replacement licence – replaces 10SL047349 – not subject to the 1995 Hawkesbury/Nepean Embargo) (Reference: 10SL056793).

Any inquiries regarding the above should be directed to the undersigned on (02) 9895 7194.

Written objections, specifying grounds, must be lodged with the Department of Water and Energy, PO Box 3720, Parramatta NSW 2124, within 28 days of the date of this publication as prescribed by the Act.

WAYNE CONNERS,
Licensing Officer

WATER ACT 1912

APPLICATIONS under Part 2 within a proclaimed (declared) local area under section 5(4) of the Water Act 1912.

Applications for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

Murrumbidgee Valley

DEPARTMENT OF DEFENCE for a bywash dam on an unnamed watercourse being a tributary of Diary Station Creek, on 1/1083443, Parish Majura, County Murray, for water supply for amenities. (Reference: 40SL71125).

BATLOW FRUIT CO-OPERATIVE LIMITED for 6 dams and 3 pumps on an unnamed watercourse on Lot 2, DP 1093563 and 3 dams on an unnamed watercourse on Lot 173, DP 757214, all Parish Batlow, County Wynyard, for irrigation of 42.35 hectares (orchard) (application is to replace an existing licence to include an additional dam and pump – no increase in volumetric allocation) (Reference: 40SL71127).

Any enquiries regarding the above should be directed to the undersigned on (02) 6953 0700.

Written objections, specifying grounds, must be lodged with the Department of Water and Energy, PO Box 156, Leeton NSW 2705, within 28 days of the date of this publication as prescribed by the Act.

S. F. WEBB,
Licensing Manager

WATER ACT 1912

AN application for a new licence under Part 5 of the Water Act 1912, as amended, has been received as follows:

Macquarie

Stuart MACALPINE for a proposed artesian bore, Lot 6062, DP 768919 (WLL669), Parish Tubba, County Cowper, for water supply for stock and domestic purposes (new licence) (Reference: 85BL256013).

APPLICATIONS for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Hunter

Trevor William HOLLINGSLED and Ann HOLLINGSLED for three pumps on Congewai Creek and an unnamed watercourse and a dam on said unnamed watercourse on Lot 961, DP 732713, Parish Millfield, County Northumberland, for conservation and supply of water for farming purposes (dairy), conservation of water for stock and domestic purposes and irrigation of 40.0 hectares (improved pasture) (replacing licence 20SL060160 due to additional work and purpose – no increase in entitlement) (Reference: 20SL061749).

Faye Elaine McGUIGAN for a pump on an unnamed watercourse on an easement within Lot 2, DP 844544, Parish Rothbury, County Northumberland, for irrigation of 2.5 hectares (grape vines) (split of existing entitlement 20SA003508) (Reference: 20SL061736).

Written objections to the application(s) specifying the grounds thereof, must be lodged with the Department of Water and Energy, Locked Bag 10, Grafton NSW 2460, within 28 days of the date of publication.

DENNIS MILLING,
Manager,
Licensing

WATER ACT 1912

APPLICATIONS for a licence under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5(4) of the Act.

Applications for a licence under section 10 of Part 2 of the Water Act 1912, has been received as follows:

Barwon

Frederick Martin BARLOW and Margaret Eileen BARLOW for 2 pumps on the Barwon River on Lots 6, 7 and 20, DP 750471, Parish Hamilton, County Benarba, for stock and domestic purposes and irrigation of 412.5 hectares (cotton, cereals and other cash crops) (replacement licence – increased pumping capacity and additional water obtained by permanent transfer scheme) (Reference: 90SL100959) (In lieu of advertising on 11 January 2008 in the *New South Wales Government Gazette* and *Border River News* on 14 January 2008).

Macquarie River Valley

Robert John JOHNSTON for a pump on the Cudgegong River, Lot 144, DP 40245 (Reserve 94543), Parish Tongbong, County Phillip, for water supply for stock and domestic purposes and irrigation of 6 hectares (lucerne) (replacing existing entitlement by way of permanent transfer) (Reference: 80SL96280).

MYRNA PTY LIMITED for a dam on Summer Hill Creek, Lot 199 and 104 in DP 750364, Parish Bringellet, County Bathurst, for conservation of water for stock and domestic purposes (new licence) (Reference: 80SL96281).

Andrew Robert WALSH and Carmel Maree WALSH for a pump on the Bogan River, Lot 39, DP 751320, Parish Grahweed, County Canbelego, for water supply for stock and

domestic purposes and irrigation of 6.5 hectares (summer and winter crops) (replacing existing entitlement by way of permanent transfer) (Reference: 80SL96282).

Written objections to the application specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be affected and must be lodged with the Department of Water and Energy, Locked Bag 10, Grafton NSW 2460, within 28 days of the date of publication.

DENNIS MILLING,
Manager,
Licensing

Other Notices

APRENTICESHIP AND TRAINEESHIP ACT 2001

NOTICE is given of the making of a Vocational Training Order for the recognised traineeship vocation of Public Services.

The Order specifies a number of matters in relation to the required training for this vocation, including the term/s of training, competency outcomes and course/s of study to be undertaken.

The Order will take effect from the date of publication in the *New South Wales Government Gazette*.

A copy of the Order may be inspected at any State Training Centre of the Department of Education and Training or on the Internet at <http://apprenticeship.det.nsw.edu.au>.

BANKS AND BANK HOLIDAYS ACT 1912

I, JOHN DELLA BOSCA, Minister for Industrial Relations, in pursuance of section 19(3) of the Banks and Bank Holidays Act 1912, appoint that part of Friday, 22 February 2008, which is after noon to be observed as a public half-holiday within the Liverpool Plains Shire Council area.

Dated at Sydney, this 30th day of January 2008.

JOHN DELLA BOSCA, M.L.C.,
Minister for Industrial Relations

CIVIL PROCEDURE ACT 2005

PURSUANT to section 13 of the Civil Procedure Act 2005, I direct that the Registrar of the Court of Appeal (including a person acting as the registrar) may exercise the functions of the Court as stated in the Schedule to this direction.

Dated: 2 January 2008.

J. J. SPIGELMAN, AC,
Chief Justice of New South Wales

SCHEDULE

The functions of the Court as provided for in Column 1 but subject to the restriction (if any) mentioned in Column 3.

The matter in Column 2 is inserted for convenience of reference only and does not affect the operation of the direction.

Uniform Civil Procedure Rules 2005

<i>Column 1 Section</i>	<i>Column 2 Description</i>	<i>Column 3 Restriction</i>
Rule 13.4	Frivolous and vexatious proceedings	Incompetent proceedings and failure to prosecute
Rule 51.4(3)	Addition or removal of party	
Rule 51.5(1)	Leave to take step without entering appearance	
Rule 51.6	Extension of time	
Rule 51.9(1)(b)	Extension of time	
Rule 51.10(2)	Extension of time	

Rule 51.11(2)	Extension of time
Rule 51.16(1)	Extension of time
Rule 51.16(2)	Extension of time
Rule 51.17(2)	Extension of time
Rule 51.17(3)	Extension of time
Rule 51.20(2)	Specify return day for notice of appeal
Rule 51.21	Alteration of return day
Rule 51.25(1)	Directions for preparation of appeal book
Rule 51.31(2)	Leave to amend appeal book
Rule 51.33(1)	Timetable for orange book
Rule 51.34(3)	Amendment of submissions
Rule 51.39	Use of White Folder
Rule 51.41(1)	Objection to competency
Rule 51.41(2)	Costs on incompetency
Rule 51.50(1)	Security for costs
Rule 51.51(2)	Return day for motion
Rule 51.51(5)	Directions for filing evidence
Rule 51.51(6)	Directions for filing affidavits
Rule 51.57(1)	Directions for hearing in fixed vacation
Rule 51.61	Evidence in support of motion

CONTAMINATED LAND MANAGEMENT ACT 1997

Environment Protection Authority

Notice to End Investigation Declaration
(Section 16 of the Contaminated Land Management Act 1997)

Notice Number 16004; Area Number 3213

Background

The land to which this notice applies was declared as an "investigation area" (Declaration No. 15034) and an agreement to a voluntary investigation proposal (Agreement No. 19031) was issued by the Environment Protection Authority ("the EPA"). The proponent carried out investigation works under the agreement. The investigation works have been completed and the results have been made available to the EPA.

Revocation

Having reviewed the results of the investigations, the EPA is satisfied that it no longer has reasonable grounds to believe that the land to which this notice applies is contaminated in such a way as to present a significant risk of harm.

Pursuant to section 16 of the Contaminated Land Management Act 1997, declaration of investigation area number 15034, dated 14 December 2005, gazetted on 16 December 2005, ceases to be in force on the date on which this notice is published in the *New South Wales Government Gazette*.

Land to which this notice applies

Description	Address
Lot 1 in DP 615549.	41 Grand Avenue, Camellia NSW.

NIALL JOHNSTON,
A/Manager,
Contaminated Sites,

Department of Environment and Climate Change

Dated: 25 January 2007.

NOTE:

Information recorded by the EPA

Section 58 of the Contaminated Land Management Act 1997 requires the EPA to maintain a public record. A copy of this notice will be included in the public record.

Information recorded by councils

Section 59 of the Act requires the EPA to give a copy of this notice to the relevant local council. The council may then make appropriate consequential modifications to the planning certificate issued in relation to the land to which this notice applies pursuant to s.149 of the Environmental Planning and Assessment Act 1979.

Relationship to other regulatory instrument

This revocation notice does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.

* The EPA is part of the Department of Environment and Climate Change (NSW).

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Amend Address Locality Boundary in Gosford Local Government Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the address locality boundary between Matcham and Wamberal in the Gosford Local Government Area as shown on map GNB3532-2-A.

Plots GNB3532-2-A showing the proposed boundary amendment between Matcham and Wamberal can be viewed at Kincumber Library, Bungoona Road, Kincumber; Woy Woy Library, Cnr Blackwall Road and Oval Avenue, Woy Woy; Erina Library, The Hive, Erina Fair and the Office of the Geographical Names Board of New South Wales, Panorama Avenue, Bathurst NSW 2795, from Wednesday, 30 January 2008, until Friday, 29 February 2008.

This proposal may also be viewed and submissions lodged on the Geographical Names Board's internet site at www.gnb.nsw.gov.au.

Any person wishing to make comment upon this proposal may, prior to the 29 February 2008, write to the Secretary of the Board with that comment. Submissions made in accordance with section 9 of the Geographical Names Act 1966, may be subject to a Freedom of Information application.

WARWICK WATKINS,
Chairperson

Geographical Names Board,
PO Box 143, Bathurst NSW 2795.

GEOGRAPHICAL NAMES ACT 1966

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to assign the names listed hereunder as geographical names.

Any person wishing to make comment upon these proposals may within one (1) month of the date of this notice, write to the Secretary of the Board with that comment.

Proposed Name: Bundabah Creek.
Designation: Creek.
L.G.A.: Lake Macquarie City Council.
Parish: Morisset.
County: Northumberland.
L.P.I. Map: Morisset.
1:100,000 Map: Gosford 9131.
Reference: GNB5217.

Proposed Name: Biraban Creek.
Designation: Creek.
L.G.A.: Lake Macquarie City Council.
Parish: Awaba.
County: Northumberland.
L.P.I. Map: Swansea.
1:100,000 Map: Lake Macquarie 9232.
Reference: GNB5217.

Proposed Name: Yallowali Creek.
Designation: Gully.
L.G.A.: Lake Macquarie City Council.
Parish: Wallarah.
County: Northumberland.
L.P.I. Map: Swansea.
1:100,000 Map: Lake Macquarie 9232.
Reference: GNB5217.

Proposed Name: Muraban Creek.
Designation: Creek.
L.G.A.: Lake Macquarie City Council.
Parish: Kahibah.
County: Northumberland.
L.P.I. Map: Swansea.
1:100,000 Map: Lake Macquarie 9232.
Reference: GNB5217.

Proposed Name: Kinup Creek.
Designation: Gully.
L.G.A.: Lake Macquarie City Council.
Parish: Wallarah.
County: Northumberland.
L.P.I. Map: Swansea.
1:100,000 Map: Lake Macquarie 9232.
Reference: GNB5217.

Proposed Name: Young Wallsend Creek.
 Designation: Creek.
 L.G.A.: Lake Macquarie City Council.
 Parish: Teralba.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5217.

Proposed Name: MacNamara Creek.
 Designation: Gully.
 L.G.A.: Lake Macquarie City Council.
 Parish: Kahibah.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5217.

Proposed Name: Kennedy Creek.
 Designation: Gully.
 L.G.A.: Lake Macquarie City Council.
 Parish: Kahibah.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5217.

Proposed Name: Boatman Creek.
 Designation: Creek.
 L.G.A.: Newcastle City Council.
 Parish: Newcastle.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5214.

Proposed Name: Koba Creek.
 Designation: Gully.
 L.G.A.: Newcastle City Council.
 Parish: Newcastle.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5214.

Proposed Name: Bowinbah Creek.
 Designation: Creek.
 L.G.A.: Newcastle City Council.
 Parish: Newcastle.
 County: Northumberland.
 L.P.I. Map: Wallsend.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5214.

Proposed Name: Marys Beach.
 Designation: Beach.
 L.G.A.: Port Stephens Council.
 Parish: Tomaree.
 County: Gloucester.
 L.P.I. Map: Port Stephens.
 1:100,000 Map: Port Stephens 9332.
 Reference: GNB5192.

Proposed Name: Yachett Point.
 Designation: Point.
 L.G.A.: Port Stephens Council.
 Parish: Tomaree.
 County: Gloucester.
 L.P.I. Map: Port Stephens.
 1:100,000 Map: Port Stephens 9332.
 Reference: GNB5192.

Proposed Name: Yachett Point Reserve.
 Designation: Reserve.
 L.G.A.: Port Stephens Council.
 Parish: Tomaree.
 County: Gloucester.
 L.P.I. Map: Port Stephens.
 1:100,000 Map: Port Stephens 9332.
 Reference: GNB5192.

Proposed Name: Garrard Reserve.
 Designation: Reserve.
 L.G.A.: Shoalhaven City Council.
 Parish: Ulladulla.
 County: St Vincent.
 L.P.I. Map: Milton.
 1:100,000 Map: Ulladulla 8927.
 Reference: GNB5204.

Proposed Name: Barwon Inn Rest Area.
 Designation: Reserve.
 L.G.A.: Walgett Shire.
 Parish: Merritombea.
 County: Baradine.
 L.P.I. Map: Walgett.
 Reference: GNB5206.

Proposed Name: John Shepherd Reserve.
 Designation: Reserve.
 L.G.A.: Shellharbour City Council.
 Parish: Jamberoo.
 County: Camden.
 L.P.I. Map: Albion Park.
 1:100,000 Map: Kiama 9028.
 Reference: GNB5207.

Proposed Name: Lance Ferris Park.
 Designation: Reserve.
 L.G.A.: Ballina Shire Council.
 Parish: Ballina.
 County: Rous.
 L.P.I. Map: Ballina.
 1:100,000 Map: Ballina 9640.
 Reference: GNB5212.

Proposed Name: Darcys Lookout.
 Designation: Lookout.
 L.G.A.: Maitland City Council.
 Parish: Maitland.
 County: Northumberland.
 L.P.I. Map: Beresfield.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5209.

Proposed Name: Shamrock Hill Sporting Fields.
 Designation: Reserve.
 L.G.A.: Maitland City Council.
 Parish: Maitland.
 County: Northumberland.
 L.P.I. Map: Beresfield.
 1:100,000 Map: Newcastle 9232.
 Reference: GNB5210.

Proposed Name: Hobbes Walkway.
 Designation: Track.
 L.G.A.: Moree Plains Shire Council.
 Parish: Moree.
 County: Courallie.
 L.P.I. Map: Moree.
 1:100,000 Map: Moree 8839.
 Reference: GNB5213.

Proposed Name: Bungaree Reserve.
 Designation: Reserve.
 L.G.A.: Woollahra Municipal Council.
 Parish: Alexandria.
 County: Cumberland.
 L.P.I. Map: Sydney Heads.
 1:100,000 Map: Sydney 9130.
 Reference: GNB5216.

Proposed Name: Sydney Harbour Bridge Light.
 Designation: Trig. Station.
 L.G.A.: Unincorporated.
 County: Cumberland.
 L.P.I. Map: Parramatta River.
 1:100,000 Map: Sydney 9130.

The position and the extent for these features are recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's Web Site at www.gnb.nsw.gov.au.

WARWICK WATKINS,
 Chairperson

Geographical Names Board,
 PO Box 143, Bathurst NSW 2795

HERITAGE ACT 1977

ERRATUM

Saint Francis Xavier's Church, Berrima

The notice published in the *New South Wales Government Gazette* No. 10, Page 180 of 25 January 2008, relating to Saint Francis Xavier's Church, Berrima, should have read:

State Heritage Register No. 1771 and not State Heritage Register No. 1171.

INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

THE following association is hereby incorporated under the Parents and Citizens Associations Incorporation Act 1976.

1. Sutton Forest Public School

JOHN DELLA BOSCA, M.L.C.,
 Minister for Education and Training

LOCAL GOVERNMENT ACT 1993

PROCLAMATION

MARIE BASHIR, AC, CVO, Governor

I, Professor MARIE BASHIR, AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 218B of the Local Government Act 1993, hereby alter the boundaries of the Area of Clarence Valley as described by Proclamation in *New South Wales Government Gazette* No. 157 of 16 December 2005 and the Area of Armidale Dumaresq as described by Proclamation in *New South Wales Government Gazette* No. 25 of 18 February 2000, by taking part of the Area of Armidale Dumaresq described in Schedule A hereto and adding it to the Area of Clarence Valley so that the boundary of the Area of Armidale Dumaresq and the boundary of the

Area of Clarence Valley shall be described in Schedules B and C hereto. I also make provision in Schedule D for the apportionment of rates and charges between the two affected Councils.

Signed and sealed at Sydney, this 23rd day of January 2008.

By Her Excellency's Command,

The Hon. PAUL LYNCH, M.P.,
 Minister for Local Government

GOD SAVE THE QUEEN!

Schedule A – Land to be Transferred

Area about 3.37 hectares. Being that part of Lot 6, DP 623563, lying in Armidale Dumaresq Council area.

Schedule B – Armidale Dumaresq Council (as altered)

Area about 4204.38 square kilometres. Commencing at the confluence of Macleay River and Blue Mountain Creek; and bounded thence by that river downwards and Kunderang Brook, Fitzroy Creek and Trap Creek upwards to the western prolongation of the southern boundary of the Parish of Kunderang, County of Vernon; by that prolongation and boundary easterly and part of the generally eastern boundaries of the Counties of Vernon and Clarke generally northerly to the range partly forming the generally north-eastern boundary of the Parish of Lookout, County of Clarke; by that range generally north-westerly to the generally south-western boundary of Lot 6, DP 623563; by that boundary and part of the western boundary of that lot, generally north-westerly and northerly to, again, the range partly forming the generally north-eastern boundary of the Parish of Lookout, County of Clarke; by that range generally north-westerly to the road from Armidale to Grafton; by that road generally south-westerly to Macleay Range; by that range generally westerly to the southmost northern boundary of Portion 20, Parish of Serpentine; by part of that boundary, the eastmost western, the northmost northern and part of the western boundaries of that portion westerly, northerly, westerly and southerly to again the Macleay Range; by that range (in part of Snowy Range and Doughboy Range) generally north-westerly to the generally southern boundary of the Parish of Aberfoyle; by part of that boundary generally westerly to Aberfoyle River; by that river upwards to the north-eastern prolongation of the generally north-western boundary of Lot 5, D.P. 878309; by that prolongation and boundary south-westerly and a south-western boundary of that lot south-easterly and its prolongation to again Aberfoyle River; by that river upwards to generally eastern boundary of the Parish of Legune; by that boundary generally southerly to Wollombi River; by that river upwards to the generally eastern boundary of the Parish of Wentworth, County of Sandon; by that boundary generally southerly to Gara River; by that river upwards to the generally southern boundary of the Parish of Falconer; by that boundary generally westerly to the New England Highway; by that highway generally southerly to the eastern prolongation of the southern boundary of Portion 156, Parish of Exmouth; by that prolongation and boundary westerly, the western boundary of that portion northerly, part of the southern boundary of Portion 97 westerly, the eastern, the southern and the western boundaries of Portion 110 southerly, westerly and northerly, the western boundary of Lot 1, D.P. 247235 northerly, part of the southern boundary of Portion 149 westerly, part of the eastern and the southern (and its

prolongation) boundaries of Lot 1, D.P. 104366 westerly, part of the eastern boundary of Lot 5, D.P. 731475; the eastern boundary of Lot 4, D.P. 731475, the northernmost eastern, the southernmost northern, the easternmost eastern and its prolongation, the northernmost southern and the generally eastern boundary of Lot 6, D.P. 260923 and the easternmost eastern boundary of Portion 202 generally southerly, the southern boundary of the lastmentioned portion; a line, and part of the southern boundary of Portion 203 westerly, the eastern and southern boundaries of Portion 21, the southernmost southern and part of the western boundaries of Portion 152 and part of the southern boundary of Lot 2, D.P. 372798 southerly, westerly, northerly and again westerly to the Main Northern Railway; by that railway generally south-westerly to the generally western boundary of the Parish of Exmouth; by part of that boundary generally northerly to the north-western corner of Portion 76; by a line northerly to Boorolong Creek; by that creek downwards to the southern prolongation of the western boundary of Portion 144; by a line northerly to the generally south-western boundary of Lot 1, D.P. 859460; by part of that boundary, the westmost western and part of the northern boundaries of that lot generally north-westerly, northerly and easterly to the generally western boundary of the Parish of Exmouth; again by part of that boundary generally northerly and part of the generally northern boundary of the Parish of Boorolong generally westerly to the eastern boundary of Lot 1, D.P. 515363; by part of that boundary, the generally southern boundary and its western prolongation southerly and generally westerly to the generally eastern boundary of Portion 35, Parish of Williams; by part of that boundary and part of the eastern boundary of Portion 17 generally southerly to the range dividing the waters of Abington Creek from those of Boorolong Creek; by that range generally south-westerly to the southern prolongation of the western boundary of Portion 33, Parish of Sobraon, County of Sandon; by that prolongation southerly and the eastern prolongation of the southernmost northern boundary of Portion 47, Parish of Sandy Creek, County of Hardinge westerly to the range dividing the waters of Abington Creek from those of Boorolong Creek; again by that range generally south-westerly to the north-eastern prolongation of the south-eastern boundary of Portion 1; by that prolongation south-westerly to the generally northern boundary of that portion; by that boundary generally westerly, part of the western boundary of that portion southerly, the southernmost southern and westernmost generally western boundaries of Portion 16 westerly and generally northerly, the northernmost northern boundary of the lastmentioned portion and the northern and part of the western boundaries of Portion 22 westerly and southerly and the southern and western (and its prolongation) boundaries of Portion 15 westerly and northerly to Laura Creek; by that creek downwards to the northern prolongation of the generally eastern boundary of Lot 72, D.P. 705121; by that prolongation and boundary, a line, and the generally north-eastern boundary of Portion 39 generally south-easterly, part of the generally western boundary of Lot 85 D.P. 722461, the western boundary of Lot 87 D.P. 722461, a line, part of the north-eastern boundary of Portion 49, Parish of Russell part of the generally north western boundary of Lot 81, D.P. 721212 and the generally western boundary of Lot 51, D.P. 657847 generally southerly, part of the northern and part of the eastern boundaries of Portion 67 easterly and southerly and the south-western boundary of Portion 74 south-easterly to the generally northern boundary of the Parish of Yarrowick; by part of that boundary generally easterly to the western boundary of Portion 113; by that

boundary and the generally southern boundary of that portion southerly and generally easterly, the south-western boundaries of Portion 67 and Lot 1, D.P. 509352 south-easterly, the generally western, the south-western, the southern and part of the generally eastern boundaries of Lot 2, D.P. 509352 generally southerly, south-easterly, easterly and generally northerly to the generally northern boundary of the Parish of Yarrowick, County of Sandon; by that boundary easterly to Boorolong Creek; by that creek downwards and Toms Creek upwards to the generally northern boundary of the Parish of Elton; by that boundary generally easterly to Saumarez Creek; by that Creek and Salisbury Waters downwards to Mihi Creek upwards to the northern prolongation of the western boundary of Portion 124, Parish of Lawrence; by that prolongation southerly, the generally northern boundary of that portion generally easterly and a line easterly to the generally western boundary of the Parish of Enmore; by part of that boundary generally southerly and part of the generally southern boundary of that parish generally north-easterly to Blue Mountain Creek, aforesaid, and by that creek downwards to a north-western prolongation of a generally south-western boundary of Lot 13, D.P. 704004; by that prolongation and part of that boundary generally south-easterly, part of the generally southern and the generally south-eastern boundaries of that lot and its prolongation generally easterly and generally north-easterly to, again, Blue Mountain Creek; and by that creek downwards to the point of commencement.

Schedule C – Clarence Valley Council (as altered)

Area about 10075.68 square kilometres: Commencing at the junction of Coombadjha Creek and the northern boundary of the Parish of Albert, County of Drake: and bounded thence by that boundary westerly to Gibraltar Range; by that range generally northerly to the source of Grasstree Creek; by that creek downwards to the generally eastern boundary of the Parish of Hong Kong; by part of that boundary generally northerly to the southern boundary of Portion 34; by part of that boundary westerly and the south-western and part of the generally north-western boundaries of that portion north-westerly and generally north-easterly to the southern prolongation of the generally western boundary of Portion 90, Parish of Hamilton; by that prolongation and boundary generally northerly and the southern boundary of that portion and its prolongation westerly to Timbarra River; by that river downwards to the generally northern boundary of the Parish of Hamilton; by that boundary generally easterly and the eastern prolongation of the northern boundary of Portion 54 easterly to a point north of Mount Pickapene; by a line southerly to that mount; by the range forming the northern watershed of Surveyors Creek and Keembin Creek generally easterly and Richmond Range generally south-easterly, generally easterly to the western boundary of Lot 41, DP 755615; by that lot boundary, the western boundaries of Lots 38 and 44, DP 755615, northerly, the western, northern and part of the eastern boundaries of Lot 37, DP 755615, northerly, easterly and southerly, the northern boundaries of Lots 14 and 15, DP 755615, easterly, the western boundaries of Lots 17 and 19, DP 755615, northerly, part of the southern and the western boundaries of Lot 21, DP 755615, westerly and northerly, the southern boundary of Lot 34, DP 755615, westerly, the southern and western boundaries of Lot 35, DP 755615, westerly and northerly, the western, northern and eastern boundaries of Lot 30, DP 755615, northerly, easterly and southerly, to the northern side of the reserved road running through Lot 53, DP 755615; by that road, easterly to the eastern boundary of that lot; by part of that boundary,

southerly and part of the northern boundary of Lot 10, DP 755629, easterly to the Richmond Range, aforesaid; by that range, generally northerly to the western prolongation of the southern boundary of Lot 3, DP 836748; by that prolongation, boundary and the southern boundaries of Lot 4, DP 836748 and Lots 2 and 1, DP 716637, easterly, part of a generally western boundary of Lot 18, DP 755667 and its prolongation, generally northerly, the generally southern boundaries of Lot 1, DP 796807, Lot 1, DP 740167, Lot 19, DP 755629 and part of the southern boundary of Lot 28, DP 755629, generally easterly to road running through the last lot; by the generally north-western side of that road and the generally north-western side of the road running through Lot 12, DP 755613, generally north-easterly to the northern boundary of the last lot; by that boundary easterly to the north-eastern corner of that lot; by a line south-easterly to the mean low water mark of the shore of the South Pacific Ocean; by that mean low water mark, (except at the entrance of any river, creek or inlet of the sea where the boundary shall be a straight line connecting two points on the shore opposite the outermost points of the headlands of the entrance of any such river, creek or inlet of the sea) generally southerly to the range forming the generally northern watershed of Station and Saltwater Creeks; by that range, generally north-westerly to the eastern prolongation of the southern boundary of Lot 13, DP 751381; by that prolongation, boundary and part of the western boundary of that lot, westerly and northerly to, again the range forming the generally northern watershed of Saltwater and Station Creeks; by that range, generally north-westerly, generally westerly and generally southerly to the generally northern boundary of Barcoongere State Forest No 826, gazetted 5th September, 1930; by that boundary, generally westerly and the generally north-western boundary of Newfoundland State Forest No. 827, gazetted 5th September, 1930, generally south-westerly to the western boundaries of Lots 16 and 15, DP 751381; by those boundaries, southerly, the eastern and southern boundaries of Lot 10, DP 751381, southerly and westerly, part of the generally eastern boundary of the Parish of Dundoo, County of Clarence, generally southerly, the generally north-eastern and eastern boundaries of Lot 9, DP 707325 and its prolongation, generally south easterly and southerly, part of the generally northern and the generally eastern boundaries of Lot 182, DP 588190, generally easterly and generally southerly, the generally eastern and southern boundaries of Lot 11, DP 705682, generally southerly and westerly, a line, westerly across the Pacific Highway, the southern boundary of Lot 13, DP 705682, westerly, the southern and western boundaries of Lot 17, DP 705682, westerly and northerly, the southern boundary of Lot 9, DP 705682, westerly, part of the eastern boundary of Lot 2, DP 816313, southerly and the generally south-eastern boundary of Lot 3, DP 816313, generally south-westerly to Dundoo Creek; by that creek, downwards to the eastern prolongation of the generally northern boundary of Lot 1361, DP 620406; by that prolongation, boundary and the western boundary of that lot, generally westerly and southerly, the western boundary of Lot 1360, DP 620406, southerly, the northern and eastern boundaries of Lot 124, DP 752820, easterly and southerly, the north-western, generally eastern and part of the southern boundaries of Lot 131, DP 253255, north-easterly, generally southerly and westerly, the north-western side of the reserved road, running through the previous lot, south-westerly, the generally south-eastern boundary of Lot 1411, DP 736567, generally south-westerly, the generally eastern and part of the southern boundaries of Lot 1416, DP 773554, generally southerly and westerly, the eastern and southern boundaries

of Lot 2, DP 787962, southerly and westerly, the eastern, northern and generally north-western boundaries of Lot 121, DP 752849, northerly, westerly and generally south-westerly and the eastern prolongation of the southern boundary of Lot 2, DP 834760, boundary and its prolongation westerly to Sherwood Creek; by that creek, upwards to the eastern prolongation of the southern boundary of Lot 10, DP 708068; by that prolongation, boundary and part of the southern boundary of Lot 9, DP 708068, westerly to the generally eastern boundary of Sherwood Nature Reserve, gazetted 16th December, 1966; by part of that boundary, generally southerly to the generally southern boundary of the Parish of Waihou, County of Fitzroy; by part of that boundary, westerly to the Orara River; by that river, upwards to the generally northern boundary of the Parish of Bagawa; by part of that boundary, generally westerly, the generally western boundary of Portion 53 and the westernmost generally western boundary of Portion 51, generally southerly, the northern and north-eastern boundaries of Portion 50, easterly and south-easterly, the eastern boundaries of Portions 49 and 48, southerly, the southern boundary of the last mentioned portion, a line and part of the southern boundary of Portion 45, westerly to Averys Creek; by that creek upwards to the north-eastern prolongation of the south-eastern boundary of Portion 55; by that prolongation and boundary, south-westerly, the south-eastern and the generally south-western boundaries of Portion 47, south-westerly and generally north-westerly and part of the north-western boundary of Portion 15, Parish of Gundar, south-westerly to Bushmans Range; by that range generally north-westerly to the north-eastern prolongation of the south-eastern boundary of Portion 57, Parish of Towallum; by that prolongation, boundary and its prolongation south-westerly to Mole Creek; by that creek and Little Nymboida downwards and Bobo River upwards to the generally southern boundary of the Parish of Bobo; by that boundary generally westerly to Nymboida River; by that river upwards to the generally north-western boundary of Portion 22, Parish of Meldrum Downs; by part of that boundary and the western boundary of that portion generally south-westerly and southerly and part of the northern and the generally south-eastern boundary of Portion 47, Parish of Allans Waters easterly and generally south-westerly to the generally southern boundary of the County of Fitzroy; by part of that boundary generally south-westerly to the range partly forming the generally north-eastern boundary of the Parish of Lookout, County of Clark; by that range generally north-westerly to the generally south-western boundary of Lot 6, DP 623563; by that boundary and part of the western boundary of that lot, generally north-westerly and northerly to, again, the range partly forming the generally north-eastern boundary of the Parish of Lookout, County of Clarke; by that range generally north-westerly to the road from Armidale to Grafton; by that road north-easterly to the eastern prolongation of the generally northern boundary of Portion 26, Parish of Guy Fawkes, County of Clarke; by that prolongation and boundary westerly, northerly and generally westerly, part of the eastern boundary of Portion 24, a line, and the eastern and northern boundaries of Portion 47 northerly and westerly, part of the north-eastern boundary of Portion 43 north-westerly, the generally eastern and northernmost northern boundaries of Portion 39 generally northerly and westerly, part of the generally eastern and northernmost northern boundaries of Portion 36 generally northerly and westerly and part of the eastern boundary of Portion 35, the eastern boundary of Portion 37 and the generally eastern boundaries of Portions 38 and 49 and its prolongation generally northerly to Pantons Creek; by that creek, Guy Fawkes River and Boyd River

downwards and Razorback Creek and Prairie Gully upwards to the generally northern boundary of Portion 10, Parish of Glen Nevis, County of Gresham; by part of that boundary generally westerly to the generally southern boundary of the Parish of Henry at London Bridge; by part of that boundary generally westerly to Roger Creek; by that creek, Henry River and Mann River downwards to the western boundary of the Parish of Puhoi, County of Drake; by that boundary northerly to Dandahra Creek; by that creek downwards to the generally western boundary of the Parish of Coombadjha; by that boundary generally northerly to Coombadjha Creek, aforesaid, and by that creek downwards to the point of commencement.

Schedule D

- (1) Appropriate arrangements are to be made in relation to the rates and charges over the rateable parcels of land affected by this Proclamation. The General Manager of Clarence Valley Council and the General Manager of Armidale Dumaresq Council are to reach a negotiated agreement on the nature of those arrangements.
- (2) In the event that the General Managers of Clarence Valley Council and Armidale Dumaresq Council cannot come to a negotiated agreement on the matter of rates and charges, the Minister for Local Government will make a determination on that matter.
Such a determination may be made:
 - (a) by referral to the Minister for Local Government by Clarence Valley Council or Armidale Dumaresq Council or by both of those Councils; or
 - (b) without referral from those Councils if the Minister for Local Government is satisfied that the matter of rates and charges cannot be determined by agreement between Clarence Valley Council and Armidale Dumaresq Council or if the Minister is not satisfied with an agreement between Clarence Valley Council and Armidale Dumaresq Council .

TRANSPORT ADMINISTRATION ACT 1988

**LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Stratum Leasehold
for the Purposes of the Transport Infrastructure
Development Corporation

THE Transport Infrastructure Development Corporation, with the approval of Her Excellency the Governor, with the advice of the Executive Council, declares that the interest described in the Schedule hereto is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of the Transport Infrastructure Development Corporation, as authorised by the Transport Administration Act 1988, being for rail facilities in connection with the North Sydney Station Upgrade.

Dated this 21st day of January 2008.

CHRIS LOCK,
Chief Executive Officer

SCHEDULE

All that part of Lease registered as Lease Book 2629 No. 746 in the General Register of Deeds of land situate at North Sydney in the Local Government Area of North Sydney, Parish of Willoughby, County of Cumberland and State of New South Wales being Lot 15 in a plan of identification by surveyor Phillip Alfred Alldis, Ref: 30508MGA/1 dated 9 November 2007 available in the office of the Transport Infrastructure Development Corporation and said to be in the possession of Multiplex Property Funds Management Limited.

TIDC Reference: 320770_1.

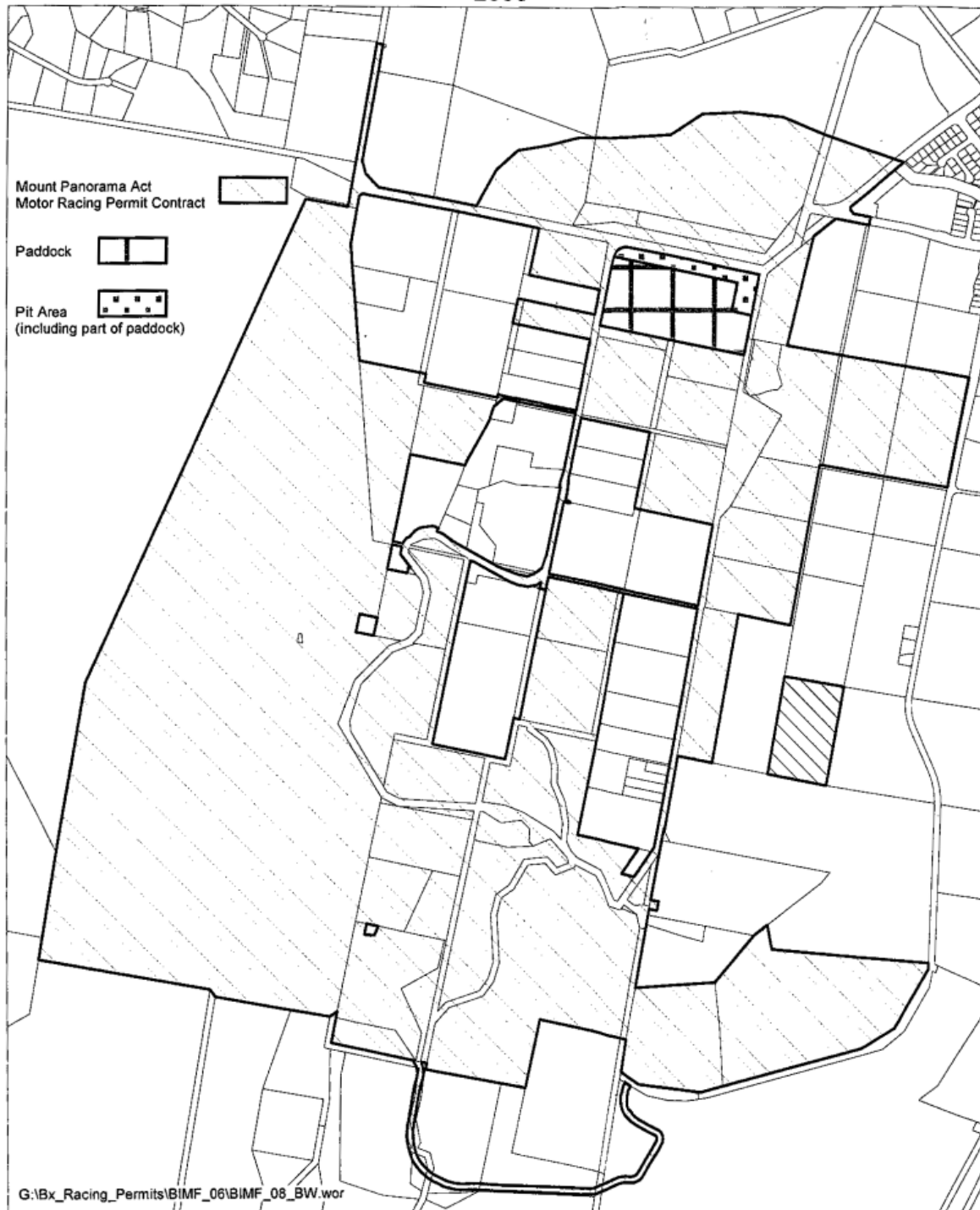
MOUNT PANORAMA MOTOR RACING ACT 1989

Conduct of Motor Racing and Associated Events at Mount Panorama

IN pursuance of the provisions of section 4 of the Mount Panorama Motor Racing Act 1989, I declare that the lands, as shown by hatching on the diagram hereunder, shall constitute the Mount Panorama Circuit for the purpose of motor racing, practice and associated events during the period 8 February to 10 February 2008, both dates inclusive.

GRAHAM WEST, M.P.,
Minister for Gaming and Racing
and Minister for Sport and Recreation

BATHURST REGIONAL COUNCIL
Mt Panorama Circuit
Bathurst Motor Festival
2008



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Bathurst Regional Council expressly disclaims all liability for errors or omissions of any kind whatsoever, or any loss, damage or other consequence which may arise from any person relying on information in this Plan.

Date 24/01/2006

Note: The colours on this Plan do not indicate zones under the Bathurst Local Environmental Plan 1997.

Department of Lands

**IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY**

No: S24 of 2008

**BETWEEN
ROBERT ARTHUR SMITH**
Petitioner

**AND
AUSTRALIAN ELECTORAL
COMMISSION**
Respondent

ELECTION PETITION OF ROBERT ARTHUR SMITH

This petition concerns the Federal election for the half Senate poll in Queensland and NSW conducted on 24 November 2007

RETURN OF WRIT

Writs for the General election held on 24 November 2007 were returned on 21 December 2007

ENTITLEMENT TO FILE THIS PETITION

The petitioner is entitled to file this petition pursuant to Section 355 sub (a) to (e) of the CEA 1918, as being the No1 Senate candidate for The Fishing Party contesting above the line group ticket G in Queensland and the petitioner being a registered voter for the state of NSW who exercised that Senate vote through his Division of Hunter. The petitioner believes that Sections 352, 353, 354, 355, 356, 358, 359, 360, 363 and 363A and in particular 364 of the Commonwealth Electoral Act 1918 in conjunction with Clause 5, Section 1 and 75 of the Australian Constitution along with the Judicial Act 1903 Part (iv) (all) give authority to this court to rule on and

<p>FILED BY: ROBERT ARTHUR SMITH 11 WATTS CLOSE SINGLETON NSW 2330 Fax/Ph: 02 6556 0338</p>

proceed with this petition to obtain for the Australian people a fair and honest election.

STATEMENT OF FACTS

- 1) **The Australian Electoral Commission registered a political party that contested the 24 November 2007 half Senate election for Queensland and NSW (and SA) named as Australian Fishing and Lifestyle Party that obtained Federal political party registration by “fraud or misrepresentation.”**

Particulars:

(i) The petitioner is the signatory and authorised representative of The Fishing Party which had been an unincorporated voluntary non-profit organisation federally registered as a political party since 2001 having contested the Senate and House of Representative seats in NSW in 2001, 2004 and Qld Senate in 2004 prior to the forced de-registration of the party on **27 December 2006** and made their re-registration application on **22 December** the same month. The party does not need to be registered to remain a federal political party to retain that legal and political entity but being registered offers some advantage to the party for funding payments instead of the candidate.

(ii) On **2 January 2007** the Australian Electoral Commission accepted a 2nd application to register The Fishing Party by the party’s Queensland state branch signed by that branch secretary for that federal registration, this constitutes a fraudulent attempt to hijack the federal party structure. The AEC did this after having already received the re-registering application of the previous registered party duly signed by the federal party authorised signatory Robert Smith being this petitioner.

(iii) The 2nd statutory signed and witnessed application was supported by 500 plus statutory signed membership contracts of The Fishing Party pursuant to Part XI of the Commonwealth Electoral Act 1918.

(iv) With the limited facts available from the AEC the random sample test of 20 members was completed in **April 2007** by the AEC with a pass of 19 affirmatives which must have been for The Fishing Party members to support that 2nd application.

(v) On **11 May 2007** the next month after doing that sample test for The Fishing Party and 4 months after accepting that 2nd application, the AEC used its Legislation powers pursuant to s131 of the CEA 1918 and informed that 2nd applicant party that they may refuse their application because there was already a recognised political registered party by the name The Fishing Party and so issued a variation notice under s131 of the CEA 1918.

(vi) On the **28 May 2007** the AEC accepted the official response from that applicant party with their amended application to change the party applicant name to Australian Fishing and Lifestyle Party with abbreviation AFLP but contravened its Powers, Function and Legislation by not addressing s131 (3) and (4) but continued with and contravened s132 and s132A of the CEA 1918. It is evident that the 500 plus members used by that applicant did not even know that their contracts were being used to support another unrelated political party and in actual fact the party now named AFLP was to be placed on a TFP (Qld) branch AGM meeting agenda as “*proposed party*” which was not advertised until **August 2007** and scheduled for the **15 September 2007** meeting, that being 4 months after the secret name change and after that party was placed on the Register of political parties. It is evident that after the variation there were not 500 statutory signed and annexed

membership contract forms submitted to the AEC from AFLP to support their new application.

(vii) On **4 July 2007** the AEC published in the Australian Government Gazette and 10 prominent newspapers the application of AFLP to be a registered party that was to have a one month period to receive objections pursuant to s132 (2) (3) (4) (5) (6) (7)

(viii) Four objections pursuant to contravening s132 were received in short time, being 2 from the ALP-Australian Labor Party objecting to the similar confusing abbreviation and two objections from The Fishing Party dated **12th and 16th July 2007** signed by this petitioner in his capacity of party officer objecting to 3 issues:

- 1) being the confusing abbreviation,
- 2) the applicant had no members and was using TFP members and TFP federal membership contracts to register an unrelated party,
- 3) and the name “Fishing” with Party would confuse and mislead voters having 2 “Fishing Parties” which has been evident in media, letters and public statements since. [CEA 1918 s126]

(ix) The Respondent dismissed all the objections on **21 August 2007** with unsatisfactory reasons for the petitioner and then placed AFLP on the list of Registered Parties, so the petitioner on behalf of the Party further objected with a letter dated **22 August 2007** alerting the Commissioner again that TFP members were being used to register an unrelated party contravening Part X1 of the CEA 1918.

(x) The Respondent received a letter of Appeal from The Fishing Party signed by the petitioner dated **28 August 2007** pursuant to s141 CEA 1918 as an official appeal to review the decision of the delegate to register AFLP and citing s137(c) as

a legal challenge to the registration of a political party that was obtained by “fraud or misrepresentation”.

(xi) The Respondent received another letter from TFP signed by the petitioner addressed to the Commissioner dated **29 August 2007** with further supporting evidence for the AEC review to look into, in that conduct of the AEC had contravened s131 and s132 conditions in relation to variation to applications where under (4) a varied application would be treated as a new application.

(xii) The Respondent received another letter dated **27 September 2007** from TFP signed by petitioner addressed to the Commissioner seeking an answer to the appeal and further alerting him to the confusion that exists within the TFP members in Qld. TFP also alerted him to the incorrect cross referencing of duplicate membership who were all checked as TFP members.

(xiii) A Mr Kevin Bodel representative of the Respondent replied to that appeal progress enquiry on the same day **27 September 2007** with a standard reply of when the decision is made they will inform TFP

(xiv) The petitioner on behalf of the party replied to Mr Bodel on the **3 October 2007** alerting him to the fact that the appeal is now a month old and time was running out to get into the Administrative Appeals Tribunal before the election eggs were scrambled at the **November 24 2007** Federal election. He was also informed of a letter from Queensland Fishaholics website owner Mr Kevin Carpenter asking about the confusion with two ‘FISHING’ parties and their conflicting presence for voters to follow. [CEA 1918 s129 (1)]

(xv) The Respondent received a further TFP letter signed by the petitioner addressed to the Commissioner dated **4 October 2007** alerting him to a public

article depicting confusion with the 'FISHING' parties and asking him to stop this fraudulent charade [CEA 1918 s129 (1)]

(xvi) The Respondent representative Mr Kevin Bodel informed the petitioner with an email letter dated **5 October 2007** that a decision on the review appeal had been made by the AEC but had to be signed by three Commissioners before becoming official. [CEA 1918 s141 (4)]

- 2) **Having exhausted all avenues of appeal and review within the AEC framework there was no alternative other than to apply to the next level of legal redress being the Administrative Appeals Tribunal.**

Particulars:

(xvii) The petitioner for the party now frustrated by unsatisfactory answers made application to the Administrative Appeals Tribunal on the **15 October 2007** for an urgent review of the AEC decision to register Australian Fishing and Lifestyle Party. [CEA 1918 s141 (5)]

(xviii) The AAT set down the first Directions hearing on the **29 October 2007** before Senior Member Hunt who issued an Order to the Respondent to provide Gazette notices of Election Writs and written advice on whether a reviewable decision was made, and to the Applicant to file written submissions to the above matters before close of business next day Tuesday **30 October 2007**

(xix) The AAT then set down the second Directions Conference before Justice Tamberlin for the following Friday **2 November 2007** to which an application from AFLP to be joined was also heard. Both the AEC and TFP objected to the joining. The AEC successfully argued that Section 127 of the CEA1918 had prohibition for

the AAT because the writs for the election had been issued even though TFP argued that Section 127 only applied to parties that were in the action of getting registered rather than apply to parties already registered. Justice Tamberlin adjourned proceedings over to **5 February 2008** well after the election eggs were scrambled and this meant that subsequently this period falls outside the 40 day election petition period concerning the return of the writs (writs returned on **19 December 2007**). This meant that the pursuit to expose possible electoral fraud was frustrated by this ruling.

3) **FURTHER FACTS OF ACTION WERE TAKEN IN SUPPORT OF PETITION**

Particulars:

(xx) In further seeking a fair and honest election the petitioner tried to present evidence to the Federal Court before the **November 24 2007** election and so attempted to file an application to the ACT Federal Court on **15 November 2007** lodged by this petitioner where leave was sought for him to represent The Fishing Party and Mr Terry Sharples also filed as litigant in person as a member of the party. After some indiscretion and leave refused by HH now known to be Flick J as indicated in Registry internal emails, that application was withdrawn.

(xxi) On **20 November 2007** a new application subsequent ACD53/2007 was applied by Mr Terry Sharples litigate in person as the first applicant and the petitioner for The Fishing Party as Second Applicant to the Federal Court seeking leave with party approval for this petitioner Mr Robert Smith to represent for the second applicant.

(xxii) An urgent hearing was set down, called at 6.30pm **20 November 2007** for the next day **21 November 2007** 9.15am in the ACT Federal Court before Spender J on orders that documents be served immediately that evening by the Applicants.

(xxiii) Unfortunately this petitioner Mr Robert Smith later that evening succumbed to a three day severe case of viral gastro illness requiring medical attention and 3 day confinement which prevented him from any intervention in the proceedings or further documents being handed up. Unfortunately Mr Sharples relied heavily on Mr Smith's evidence before Spender J, as can be seen in that AUSCRIPT transcript eventually properly transcribed from an 8 page incorrect first document to an 18 page nearly accurate transcript.

(xxiv) Justice Spender made a judgment **21 November 2007** in TFP absence that ordered the Second Applicant to prosecute under Federal Court Order 4 Rule 14 meaning TFP was classified as a corporation so had to be represented by a Solicitor and not this petitioner.

(xxv) An appeal application was lodged on **29 November 2007** against the orders of Spender J **21 November 2007**, which included a party obligation for a Notice for Discovery to the AEC for the AFLP party application documents that would prove the "fraud or misrepresentation" claim with TFP being this time the first applicant, again being denied leave of having this petitioner Mr Robert Smith allowed to represent TFP so the lodgment documents were held by the Registry as correspondence and not allowed to be filed. The application by Terry Sharples had the court set down a directions hearing for **13 December 2007** which on request was brought forward 2 days for a hearing at 2.15pm on the **11 December 2007** before Flick J.

(xxvi) This petitioner on behalf of TFP before Flick J **11 December 2007** attempted to put the party case only succeeding to get his documents of Application, NOM

and Affidavit accepted for filing and stamped but Flick J refused to accept this petitioners argument that TFP was not a corporation even though it was stated to be an unincorporated voluntary organisation by the petitioner and even the AGS when asked whether she thought a voluntary unincorporated organisation was an Artificial Person stated that she believed the Corporation was the 'Artificial Person' as is documented in AUSCRIPT transcript of **11 December 2007**

Flick J denied the leave sought and dismissed the NOM and ordered costs against the Second Applicant.

Flick J heard Mr Sharples and then adjourned the matter until **8 February 2008** making an order for Statement of Claim and facts to be submitted by **18 January 2008** TFP have requested urgent pro bono legal assistance with an application to the duty Registrar dated **18 January** 2008. Flick J will hear that application at 8 February 2008 Directions Hearing.

4) **THE SENATE ELECTION FACTS**

Particulars:

(xxvii) For the Qld Senate ballot above the line Group Voting there were Group Voting Tickets submitted to the Respondent from each group that allocated how that group was to distribute their preferences. A maximum of three GVT's per group is permitted. Each GVT was marked with a number consecutively marked beginning with the number 1 for their own group through to 65 in what ever candidate order of their groups choosing.

(xxviii) For the NSW Senate ballot above the line Group Voting there were Group Voting Tickets submitted to the Respondent from each group that allocated how that group was to distribute their preferences. A maximum of three GVT's per group is permitted. Each GVT was marked with a number consecutively marked

beginning with the number 1 for their own group through to 79 in what ever candidate order of their groups choosing.

(xxix) For a voter to have a valid Senate vote all that is required is to place the number 1 in a group box above the line and no more.

(xxx) For a voter to have a valid Senate vote for below the line the voter was required to mark in consecutive numbering a number to each candidate beginning with the number 1 through to 65 in Qld and in consecutive numbers beginning with the number 1 through to 79 for the NSW Senate.

(xxxi) The above the line groups especially like minded ones are known for doing preference swaps or deals which create preference flows that either enhance or restrict a group vote tally to reach the required Quota to become elected or excluded, so the preference flow is most important to parties who fail to gain the quota at first preference.

(xxxii) The inclusion or exclusion of above the line groups with their preference "*deals*" is crucial in the Senate preference system for any group to achieve quota or deciding last Senate spots. **Is there a remedy for unscrambling election Senate results if a group is removed from the election after the votes have been cast and counted?**

PRAYER FOR RELIEF

WHEREFORE, PETITIONER respectfully requests that this Court enter judgment in his favor:

RELIEF

The petitioner asks this Court of Disputed Returns to make the following orders:

- 1) Declare that the Australian Electoral Commission provide to the court for inspection by way of a court order/subpoena pursuant to section 360 of the CEA 1918 Cl (1) sub (ii) (iii) 10 working days prior to a full judicial hearing of all the party application documents and correspondence of the application to register AFLP and in particular the 500 plus AEC appendix 1 Federal Registration of Party Member statutory signed party contract and numbered annexure duly signed by the JP or legal entity along with the duplicate copy, number and date of the original receipt for the payment of the \$500.00 application fee required for a new party.
- 2) Declare the above party registration of AFLP null and void if the court finds the legality of the membership supporting documents do not comply with the application requirements of the CEA 1918, Part XI i.e the 500 plus AFLP appendix 1 federal registration of party members are not the supporting documents (declaration forms) legally required for that application.
- 3) That the court rules on whether there has been any breach of the Commonwealth Electoral Act 1918 as amended in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006 by the Australian Electoral Commission with their decision to register Australian Fishing and Lifestyle Party.
- 4) In the event of the above being proven this court declare that the Australian Electoral Commission remove from the Register of Political Parties the political party so named Australian Fishing and Lifestyle Party by authority of section 137 (c) of the CEA 1918
- 5) In the event of the political party being removed what is the court's view on the validity of the half Senate Elections of the 24 November 2007 in NSW and Qld.

Does this mean that because of the complexity of the preference system the electoral process has been misleading, unfair and dishonest and thus in breach/conflict of the Australian Constitution which states that the Commonwealth must conduct fair and honest election's

6) Awarding petitioner his expenses, costs, fees, and other disbursements associated with the filing and maintenance of this action pursuant to Section 360 of the CEA 1918 sect (1) (ix) and or sect (4)

7) Awarding such other equitable and further relief as the Court deems just and proper

DATED: 24/01/08

ROBERT SMITH

.....
(Signed by the Petitioner)

IN THE PRESENCE OF:

F. R. TAGGART

G. TAGGART, JP 150921

.....
Signed by Witness

.....
Signed by Witness

FRANCIS RAY TAGGART

GAYE TAGGART

.....
Name of Witness

.....
Name of Witness

LICENSED
POSTAL AGENT

.....
Occupation of Witness

POSTAL ASSISTANT

.....
Occupation of Witness

4 PILOT ST,
HARRINGTON NSW 2427

.....
Address of Witness

4 PILOT ST, HARRINGTON 2447

.....
Address of Witness

TO: THE RESPONDENT

AUSTRALIAN ELECTORAL COMMISSION

Of: West Block, Queen Victoria Terrace, Parkes ACT 2600

Ph:(02)62714411

Fax:(02) 6271 4558

The Petitioner's address for service is:

MR ROBERT ARTHUR SMITH

11 Watts Close, Singleton, NSW 2330

Ph/fax 0265560338

TENDERS

Department of Commerce

SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

Information in relation to the Department of Commerce proposed, current and awarded tenders is available on:

<http://www.tenders.nsw.gov.au>

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

COFFS HARBOUR CITY COUNCIL

ERRATUM

Renaming a Public Road

NOTICE is hereby given that Coffs Harbour City Council, in pursuance of section 162 of the Roads Act 1993, has changed the road name as follows:

<i>Location</i>	<i>New Name</i>
Existing road off Camperdown Street, Coffs Harbour.	Angus McLeod Place

STEPHEN SAWTELL, General Manager, Coffs Harbour City Council, Locked Bag 155, Coffs Harbour NSW 2450.

[3746]

SHOALHAVEN CITY COUNCIL

Roads Act 1993, Section 10

Dedication of Public Road

NOTICE is hereby given that the Council of the City of Shoalhaven at its meeting of 29 May 2007, Minute 07.756, resolved to acquire land for the purpose of a public road. The land as described in the Schedule below has been acquired and is hereby dedicated as Council Public Road pursuant to section 10 of the Roads Act 1993. R. PIGG, General Manager, Shoalhaven City Council, Bridge Road, Nowra NSW 2541.

SCHEDULE

Lot 1 in Deposited Plan 1107039, Parish Woodburn, County of St Vincent – Mimososa Park Road, Milton. [3747]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of RHONDA ANNE WOODHOUSE late of Ettalong in the State of New South Wales, retired, who died on 4 July 2007 must send particulars of his claim to the executors, John Darryll Turnell and Alan Arnold Bingham, care of Peninsula Law, Solicitors, 36A George Street, Woy Woy within one (1) calendar month from publication of this notice. After that time the assets may be conveyed and distributed, having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 21 January 2008. PENINSULA LAW, Solicitors, 36A George Street, Woy Woy NSW 2256 (DX 8806, Woy Woy), tel.: (02) 4343 3000.

[3748]

COMPANY NOTICES

IN the matter of SECURLEC PTY LIMITED, ACN 003 580 587 (in liquidation), and in the matter of the Corporations Act, the creditors of the abovenamed company are required on or before 28 February 2008, to prove their debts or any claims and to establish any title they may have to priority by delivering or sending through the post to the liquidator at the undermentioned address an affidavit verifying their respective debts or claims. In default they will be excluded from the benefit of any distribution made before such debts or claims are proved or such priority is established and from objecting to any such distribution. Form of proof may be obtained from the liquidator at the address shown below. Dated 22 January 2008. E. M. COWLEY, Liquidator, c.o. E. M. Cowley & Co., Chartered Accountant, 3/11 West Street, North Sydney, NSW 2060, tel.: (02) 9955 6488. [3749]

NOTICE of Special Resolution.—COOMBWOOD PTY LIMITED, ACN 000 458 926.—At a general meeting of members of Coombwood Investments Pty Limited, duly convened and held at 8th floor, 10 Spring Street, Sydney, on 11 January 2008, the Special Resolution set out below was duly passed: “That the Company be wound up voluntarily and that Mr Ronald Goss of 8th floor, 10 Spring Street, Sydney, be appointed Liquidator for the purpose of such winding up”. Dated 11 January 2008. RONALD GOSS, CA Liquidator, c.o. David B. Dickson & Co., Chartered Accountants, 8th Floor, 10 Spring Street, Sydney NSW 2000 (GPO Box 3777, Sydney NSW 2001), tel.: (02) 9221 7566. [3750]

