

What development standards are used in the draft Local Environmental Plan 2009?

In addition to the mandatory structure and zone classifications, the standard LEP template specifies a range of mandatory clauses. These clauses must be included by every Council in NSW, without amendment or alteration. As well as the compulsory clauses, there are a range of standardised optional clauses. Council has the flexibility of choosing to include these clauses, however, if used they may not be amended or altered.

Council may also, with the support of the Department of Planning, include local provisions. These are clauses drafted by Council to address the unique requirements of the local government area. These local provisions will also include a range of common planning provisions not included in the standard Local Environmental Plan template. The local provisions must be approved by the Department of Planning.

The Cessnock draft LEP adopts all the mandatory and optional clauses of the standard LEP template, with the exception of the development within the coastal zone and development below the mean high water mark, and includes a number of local provisions.

What are the principle development standards included ?

The principle development standards are contained in Part 4 of the draft Local Environmental Plan and include:

- Minimum subdivision lot size
- Rural subdivision
- Erection of dwellings in rural and environmental zones
- No strata or community title subdivisions in certain rural or environmental protection zones
- Dwelling houses - residue lots
- Height of buildings
- Floor space ratio
- Calculation of floor space ratio and site area
- Exceptions to development standards - this clause replaces State Environmental Planning Policy (SEPP) 1 - Development Standards

In addition there are a number of miscellaneous provisions relating to:

- Acquisition of land
- Classification of land
- Development near zone boundaries
- Controls relating to miscellaneous permissible uses
- Architectural roof features
- Conversion of fire alarms
- Preservation of trees or vegetation
- Heritage conservation
- Bush fire hazard reduction
- Infrastructure development and use of existing buildings of the crown

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What are the local development standards?

Part 6 Local provisions

- Subdivision in the Hunter Economic Zone
- Rural tourist and visitor accommodation in zones RU1, RU2, E2 (Bow Wow Creek Gorge Catchment and Habitat Corridors) and E3 - previously contained in the Development Control Plans
- Development in flight paths - previously contained in the Development Control Plans
- Development in areas subject to airport noise - previously contained in the Development Control Plans
- Development on land affected by flooding
- Development on land affected by acid sulfate soils

What standards and provisions have not been carried over from the current LEP 1989?

The Standard Template no longer makes provision for a number of current development provisions. Key implications include:

- Deletion of Model Provisions (Clause 6), which have been superseded by the Standard Instrument.
- Deletion of requirements for Earthworks within Zone No 1 (bwc) and Zone No 7(b) (clause 17C), which are now covered by Clause 2.6C of the Standard Instrument.
- Deletion of requirements Building lines (clause 18), which are now covered by the NSW Housing Code.
- Deletion of requirements for development on main and arterial road frontages in Zone No 1 (a) and Zone No 1 (v) (clause 21 and 22), which are now covered by SEPP Infrastructure (Clauses 28(3) & 28(4)).
- Deletion of advertisement requirements (Clause 26), which are to be dealt with in the Exempt and Complying schedules of the draft Plan and the amendments to the DCP.

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- Deletion of development principles - Zone Nos 3 (a) and 3 (c) (Clause 27), which are to be dealt within amendments to the DCP.
- Deletion of the clause relating to roads, drainage, recreation areas and parkings (Clause 28), which are now covered by SEPP Infrastructure.
- Deletion of the clause relating to community use of educational establishments (Clause 29), which are now covered by SEPP Infrastructure (Clauses 100 & 101).
- Deletion of the clause relating to Brothels (Clause 32A), which are now addressed in the land use tables using the Standard Instrument definition of 'sex services premises'.
- Deletion of the clause relating to land having environmental conservation value (Clause 42). This clause refers to an area of hatching on the existing LEP maps and the 'environmental qualities of the land', as specified in DCP 2009. Further, it is considered that other legislation will adequately control development in this location due to its steepness and vegetation cover.
- Deletion of the restrictions on access provision (Clause 44), which is adequately covered by Section 79C of the EPA Act, SEPP 11 'Traffic Generating Developments'.
- Deletion of the development within mine subsidence districts provision (Clause 47) as it is no longer necessary and covered by section 91 of the EPA Act.
- Deletion of the development of land at Kurri Kurri provision (Clause 48). The clause requires the consent of the Director General of the DoP to any subdivision for residential lots adjacent to the Kurri Kurri abattoir, to ensure that its operation, viability and employment levels are maintained. However, the site is now developed and the remaining area is significantly affected by the proposed F3 Freeway link. It is understood that the RTA is investigating purchase of the site. The provisions of Part C4 of Cessnock DCP 2006 (Land Use Conflict and Buffer Zones) also contain provisions requiring setbacks for residential development from an abattoir. For these reasons this clause is considered redundant.
- Deletion of the clause relating to Exhibition Home (Clause 49), which is now provided in the land use tables using the Standard Instrument definition of 'exhibition home'.
- Deletion of the clause relating to tourist development densities within Zone No. 1(v) (Clause 52). These provisions will now be provided in a DCP. The provision has been reworded to take account of the new definitions attached to the Standard Instrument. The draft CWSS recommends that similar tourist development density provisions be applied to all of the existing 1(a) Rural zone (proposed to be zoned part RU2 Rural Landscape and part E3 Environmental Management in Cessnock LEP 2009). A proposed Local Provisions (Clause 6.2 Rural Tourist and

Visitor Accommodation) provides for rural tourism in the RU1 zone and contains basic development requirements for rural tourism in the RU2, E2 and E3 zones.

- Deletion of the clause relating to commercial vineyards within 1(v) (Clause 53), which are now addressed in the land use tables using the Standard Instrument definition of 'viticulture'.
- Deletion of the Clause 57(3) and 57(4) as environmental management strategies have now been adopted and more than six months has elapsed since gazettal of Cessnock LEP 1989 (Amendment 60) respectively.
- Deletion of the Hunter Employment Zone - Shops within Zone 4(h) (Clause 58), which is replaced by permissibility of neighbourhood shops in the new IN1 General Industrial zone. It is noted, however, that the new provision is somewhat more restrictive than development permitted by the deleted clause.
- Deletion of the permissibility of mining provision (Clause 60), which is now addressed through land use tables of the Standard Instrument and SEPP (Mining, Petroleum Production and Extractive Industries) 2007.
- Deletion of the major tourist development provisions (Clause 61). This clause introduced requirements for tourist developments having a value in excess of \$20 million. It requires preparation of a DCP and a contributions plan and describes the matters that these plans might address. The \$20 million value is no longer considered relevant, and the information relating to a contributions plan is now out of date due to amendments to the EPA Act.
- Deletion of the clause relating to land within Bow Wow Creek Gorge Catchment and Habitat Corridors (Clause 62). For the most part, these provisions are deleted other than for identification of the subject land and a Local Provisions clause making reference to Part E, Chapter 8 Bow Wow Creek Gorge of the amended DCP. On advice from the DoP, those detailed parts of clause 62 that are still relevant are to be relocated to the DCP.
- Deletion of the savings provision relating to certain development applications (Palmisano) (Clause 65). The draft Plan will not be made prior to the one year elapsing from the date of making of Amendment No 109 and will subsequently be covered by new clause 1.8(A), if a development application were to be lodged.

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