



New South Wales

# **Newcastle City Centre Local Environmental Plan 2008 (Amendment No 1)**

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*. (N08/00183)

TONY KELLY, MLC  
Minister for Planning

## 2010 No 89

Clause 1 Newcastle City Centre Local Environmental Plan 2008 (Amendment No 1)

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# Newcastle City Centre Local Environmental Plan 2008 (Amendment No 1)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of Plan

This Plan is *Newcastle City Centre Local Environmental Plan 2008 (Amendment No 1)*.

### 2 Commencement

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

### 3 Land to which Plan applies

- (1) With respect to minor adjustments to zone boundaries, the clarification of heritage conservation area boundaries, the calculation of a building's gross floor area and acid sulfate soils, this Plan applies to the land to which *Newcastle City Centre Local Environmental Plan 2008* applies.
- (2) With respect to the amendment of the Land Application Map, this Plan applies to part of King Street between Wolfe Street and Newcomen Street and to Lot 1011, DP 1077608, 99A Hannell Street, Wickham and Lot 103, DP 1104194, 20 Newcastle Harbour, Newcastle.
- (3) With respect to the amendment of the Wickham Redevelopment Area, this Plan applies to land south of Holland Street and Bishopsgate Street and to the east of Hannell Street being part of the land shown on Newcastle City Centre Local Environmental Plan 2008 Wickham Redevelopment Area Map.
- (4) With respect to the rezoning of land from Zone B4 Mixed Use to Zone RE 1 Public Recreation, this Plan applies to part of Lot 1, DP 225689, 292 King Street, Newcastle, known as Christie Place and Lot 2, DP 706760, 92 Scott Street, Newcastle, known as Convict Lumberyard.

### 4 Maps

Each map adopted by *Newcastle City Centre Local Environmental Plan 2008* that is specified in Column 1 of the following Table is declared by this Plan to be amended or replaced, as the case requires, by the map

specified opposite in Column 2 of the Table as approved by the Minister on the making of this Plan.

<b>Column 1</b>	<b>Column 2</b>
<b>Name of map being amended or replaced</b>	<b>Name of amending or replacement map</b>
Newcastle City Centre Local Environmental Plan 2008 Land Application Map (5900_CEN_LAP_001_020_20071217)	Newcastle City Centre Local Environmental Plan 2008 Land Application Map (5900_CEN_LAP_001_020_20091215)
Newcastle City Centre Local Environmental Plan 2008 Land Zoning Map (5900_CEN_LZN_001_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Land Zoning Map (5900_CEN_LZN_001_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Land Zoning Map (5900_CEN_LZN_002_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Land Zoning Map (5900_CEN_LZN_002_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Height of Buildings Map (5900_CEN_HOB_001_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Height of Buildings Map (5900_CEN_HOB_001_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Height of Buildings Map (5900_CEN_HOB_002_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Height of Buildings Map (5900_CEN_HOB_002_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Floor Space Ratio Map (5900_CEN_FSR_001_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Floor Space Ratio Map (5900_CEN_FSR_001_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Floor Space Ratio Map (5900_CEN_FSR_002_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Floor Space Ratio Map (5900_CEN_FSR_002_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Wickham Redevelopment Area Map (5900_CEN_WRA_001_005_20071217)	Newcastle City Centre Local Environmental Plan 2008 Wickham Redevelopment Area Map (5900_CEN_WRA_001_005_20091215)
Newcastle City Centre Local Environmental Plan 2008 Heritage Map (5900_CEN_HER_001_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Heritage Map (5900_CEN_HER_001_010_20091215)
Newcastle City Centre Local Environmental Plan 2008 Heritage Map (5900_CEN_HER_002_010_20071217)	Newcastle City Centre Local Environmental Plan 2008 Heritage Map (5900_CEN_HER_002_010_20091215)

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Schedule 1 Amendment of Newcastle City Centre Local Environmental Plan 2008

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### Schedule 1 Amendment of Newcastle City Centre Local Environmental Plan 2008

**[1] Clause 7 Maps**

Omit the note at the end of clause 7 (3).

**[2] Clause 7 (4)**

Insert after subclause (3):

- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

**[3] Clause 21 Height of buildings**

Omit the note at the end of clause 21 (3).

**[4] Clause 26 Car Parking**

Omit clause 26 (4). Insert instead:

- (4) Car parking provided by or on behalf of the Council is not to be included as part of a building's gross floor area.

**[5] Clause 51**

Insert after clause 50:

**51 Acid sulfate soils**

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

<b>Class of land</b>	<b>Works</b>
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1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.

Class of land	Works
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority.
- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:
  - (a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan is not required for the works, and
  - (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):
  - (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

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- (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
  - (a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or
  - (b) the works are not likely to lower the watertable.

### [6] Schedule 2 Exempt development

Omit the note after the heading to the Schedule. Insert instead:

**Note 1.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

**Note 2.** Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

**Note 3.** 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).

### [7] Schedule 2

Omit clauses 1–13, 14 (3), 15–21, 23–25 and 27–28.

### [8] Schedule 2

Renumber clauses 14, 22 and 26 as clauses 2, 3 and 6, respectively.

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**[9] Schedule 2**

Insert the following items in numerical order in the Schedule:

**1 Filming**

- (1) **Note.** Provision repealed under the *Standard Instrument (Local Environmental Plans) Order 2006*.
- (2) May only be carried out on land:
  - (a) on which there is a heritage item, or
  - (b) within a heritage conservation area, or
  - (c) identified in clause 3.3 as an environmentally sensitive area for exempt development,if the filming does not involve or result in any of the following:
  - (d) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
  - (e) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
  - (f) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
  - (g) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (3) Must not create significant interference with the neighbourhood.
- (4) The person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000.
- (5) If the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location.
- (6) A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following

documents (without limiting the information or documents that may be submitted):

- (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
- (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
- (c) the proposed location of the filming,
- (d) the proposed commencement and completion dates for the filming at the location,
- (e) the proposed daily length of filming at the location,
- (f) the number of persons to be involved in the filming,
- (g) details of any temporary structures (for example, tents or marquees) to be erected or used at the location for the purposes of the filming,
- (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
- (i) proposed arrangements for parking vehicles associated with the filming during the filming,
- (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
- (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
- (l) a copy of the public liability insurance policy that covers the filming at the location,
- (m) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
  - (i) an approval by the Roads and Traffic Authority for the closure of a road,
  - (ii) an approval by the Council for the erection or use of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,



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- (iii) an approval by the Environment Protection Authority for an open fire,
    - (iv) an approval by the NSW Police Force for the discharge of firearms,
    - (v) an approval by the Land and Property Management Authority for the use of Crown land,
  - (n) details of any temporary alteration or addition to any building or work at the location for the purposes of the filming.
- (7) The person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
- (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
  - (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
  - (c) the proposed commencement and completion dates for the filming at the location,
  - (d) the proposed daily length of filming at the location.

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

- (1) May only be used in connection with filming that is exempt development.
- (2) Total floor area of all tents or marquees on location at the same time must not exceed 200m<sup>2</sup>.
- (3) Must be located within at least 3m from any boundary adjoining a public road and at least 1m from any other boundary.
- (4) Must have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
  - (a) 1 exit if the floor area of the tent or marquee does not exceed 25m<sup>2</sup>,
  - (b) 2 exits in any other case.

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- (5) Width of each exit must be at least:
  - (a) 800mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>, or
  - (b) 1m in any other case.
- (6) Height of the walls must not exceed:
  - (a) 4m if erected on private land, or
  - (b) 5m in any other case.
- (7) Height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee must not exceed 6m.
- (8) Must resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
  - (a) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
  - (b) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,
  - (c) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*.
- (9) Must not remain at the location more than 2 days after the completion of the filming at the location.

### **5 Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes**

- (1) May only be erected, used, altered or added to in connection with filming that is exempt development.
- (2) Temporary structure must not be at the location for more than 30 days within a 12-month period.
- (3) Alteration or addition to the building or work must not remain in place for more than 30 days within a 12-month period.
- (4) Temporary structure, or building or work in its altered or added to form, must not be accessible to the public.

### **[10] Schedule 3 Complying development**

Insert the following note after the heading to Part 1:

**Note.** *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application.

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**[11] Schedule 3**

Insert the following note at the beginning of Part 1:

**Note.** This Part refers to complying development not specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**[12] Schedule 3**

Omit clauses 1, 2 and 4.

**[13] Schedule 3**

Omit the heading to Division 2 of Part 2. Insert instead:

**Division 2 Building work and demolition**

**[14] Schedule 3, clause 17**

Omit the clause.

**[15] Schedule 5 Environmental heritage**

Omit “heavy black broken line” wherever occurring in Part 2.

Insert instead “heavy red line”.

**[16] Dictionary**

Insert in alphabetical order in the Dictionary:

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

***Acid Sulfate Soils Map*** means the Newcastle City Centre Local Environmental Plan 2008 Acid Sulfate Soils Map.