

## APPENDIX 2

### EXPLANATORY NOTES DRAFT CESSNOCK LOCAL ENVIRONMENTAL PLAN 2008

**Standard Instrument** - All LEPs in NSW are now required to be prepared in accordance with a standard instrument, which provides a 'template' which Council must use as the basis for preparing the new LEP.

**Format** - The standard instrument provides a consistent format for all new principal LEPs in NSW. The format is designed so that mandatory provisions can be updated simultaneously and consistently in all LEPs. The mandatory provisions of the LEP are shown in BLUE and remain unaltered in all Planning Instruments across the State. Council's additions and local provisions are provided in BLACK. The RED notations are departmental directions and have been retained to assist in the interpretation of the draft Plan during exhibition. These will be removed on gazettal of the draft LEP.

**Parts** - The draft LEP contains seven (7) parts, including:

- Part 1 - Preliminary
- Part 2 - Permitted or Prohibited Development
- Part 3 - Exempt and Complying Development
- Part 4 - Principal Development Standards
- Part 5 - Miscellaneous Provisions
- Part 6 - Local provisions
- Part 7 - Urban Release Areas

**Zones** - Twenty one (21) standard zones have been used from a maximum of thirty four (34) standard zones. These include standard zone objectives and mandated permitted and prohibited uses. The zoning table attached to this document shows the general transition from the current Cessnock Local Environmental Plan 1989 to the draft Cessnock Local Environmental Plan 2008.

**Definitions** - The standard instrument includes a dictionary of standard terms relating to land uses and other matters relevant to the interpretation of LEPs. Council cannot add to the dictionary. However, where appropriate, Council has defined terms that are used in a local provision. These are set out within the relevant (local) clause and would only apply for the purposes of that clause.

**Clauses** - Compulsory clauses covering administrative requirements, with numerous optional clauses available. Where an optional clause has not been used, this is noted as such in the draft Plan.

**Schedules** - The LEP contains five (5) schedules. The schedules relate to specific clauses in the main body of the report and include:

- Schedule 1 - Additional Permitted Uses
- Schedule 2 - Exempt Development
- Schedule 3 - Complying Development
- Schedule 4 - Classification and Reclassification of Public Land
- Schedule 5 - Environmental Heritage

This document provides an outline of each part, clause and schedule contained in the draft Cessnock Local Environmental Plan 2008 and comments are provided as follows:

## PART 1 - PRELIMINARY

CLAUSE No.	PROVISION
1. Name of Plan	<p><b>Compulsory</b> This clause identifies the draft Plan as the Cessnock Local Environmental Plan 2008.</p> <p>This clause has the same effect as clause 1 of the Cessnock Local Environmental Plan 1989</p>
2. Aims of Plan	<p><b>Compulsory</b> This clause sets out the aims of the draft Plan.</p> <p>The aims listed in subclause (2) are local provisions that have been inserted by Council to reflect local character and circumstance.</p> <p>This clause has the same effect as clause 2 of the Cessnock Local Environmental Plan 1989</p>
3. Land to which plan applies	<p><b>Compulsory</b> This clause identifies that the draft Plan applies to all land in Cessnock, as shown on the Land Application Map.</p> <p>This clause has the same effect as clause 3 of the Cessnock Local Environmental Plan 1989</p>
4. Definitions	<p><b>Compulsory</b> The Standard Instrument includes a dictionary of standard definitions relating to land uses and other terms relevant to the interpretation of the draft LEP. LEPs across NSW will use the same dictionary and definition for terms.</p> <p>The standard definitions in the dictionary at the end of the draft Plan are mandatory and cannot be altered by Council.</p>
5. Notes	<p><b>Compulsory</b> The notes in the draft Plan are provided in RED and are departmental directions that have been retained to assist in the interpretation of the draft Plan during exhibition. They do not form part of the LEP and will be removed on gazettal of the draft LEP.</p>
6. Consent authority	<p><b>Compulsory</b> Cessnock City Council is the consent authority for development covered by the draft Plan</p> <p>This clause has the same effect as clause 7 of the Cessnock Local Environmental Plan 1989</p>

7. Maps	<p><b>Compulsory</b> The relevant maps accompanying the LEP will be:</p> <ul style="list-style-type: none"> <li>• Land Application Map (clause 3 - to be combined with the Land Zoning Map)</li> <li>• Land Zoning Map (clause 11)</li> <li>• Lot size Map (clause 19)</li> <li>• Land Reservation Acquisition Map</li> <li>• Heritage Map (clause 35)</li> <li>• Local Provisions Map <ul style="list-style-type: none"> <li>○ Urban Release Areas - (Part 7)</li> <li>○ Dwelling Entitlements - (Clause 20A)</li> <li>○ Additional Permitted Uses - (Schedule 1)</li> <li>○ HEZ Boundary &amp; Dwelling Entitlement Provisions</li> </ul> </li> </ul>
8. Repeal of other local planning instruments applying to land	<p><b>Compulsory</b> This clause repeals all existing environmental planning instruments that apply to the draft Plan.</p> <p>Subclause 3 is a local provision included by Council that applies to a development application lodged but not determined before the commencement of the Cessnock Local Environmental Plan 2007 allowing for the DA to be determined as if the LEP had been exhibited but not commenced.</p> <p>This clause has the same effect as clauses 4 and 7A of the Cessnock Local Environmental Plan 1989</p>
8A. Suspension of covenants, agreements and instruments	<p><b>Local provision</b> This clause suspends any agreement or covenant that restricts development permitted by this plan</p> <p>This clause has the same effect as clause 43 of the Cessnock Local Environmental Plan 1989</p>
9. Application of SEPPs and REPs	<p><b>Compulsory</b> This clause details those plans (or provisions) apply to the draft Plan.</p> <p>Subclause 2 identifies certain Plans that no longer apply to land in Cessnock once the draft Plan is gazetted.</p>

## PART 2 - PERMITTED OR PROHIBITED DEVELOPMENT

CLAUSE No.	PROVISION
10. Land use zones	<p><b>Compulsory</b> This clause identifies that zones that apply to land in the Cessnock LGA Attachment 1 to this document identifies the applicable zones and compares these with the existing zoning arrangement.</p> <p>This clause has the same effect as clause 8 of the Cessnock Local Environmental Plan 1989</p>
11. Zoning of land to which Plan applies	<p><b>Compulsory</b> This clause provides that land use zones under the draft Plan are shown on the Land Zoning Map.</p>
12. Zone objectives and land use table	<p><b>Compulsory</b> This clause explains the elements of the Land Use Table which specifies, for each zone, the objectives for development and development that may be carries out without consent, only with consent and that is prohibited.</p> <p>Some zone objectives and development types have been mandated by the Standard Instrument and cannot be altered by Council.</p> <p>Additional zone objectives and land use terms have been included by Council to reflect the local character and conditions of the Cessnock LGA.</p> <p>This clause has the same effect as clause 9 and 10 of the Cessnock Local Environmental Plan 1989</p>
13. Unzoned land	<p><b>Compulsory</b> The purpose of this clause is to capture any land that council may not have zoned.</p> <p>There are no unzoned land in Cessnock under the draft Plan</p> <p>While roads under the current LEP are unzoned, it is not practical to maintain this due to the development consent requirements of this clause.</p> <p>Main Roads are now zoned SP2 Infrastructure and all other roads have taken on the predominant zone of the adjoining land.</p>
14. Additional permitted uses for particular land	<p><b>Compulsory</b> Five (5) areas in the Cessnock LGA permit additional uses contrary to the zoning. Schedule 1 of the draft LEP provides a list of sites with additional permitted uses, including:-</p> <p>(1) Unnumbered lot, DP 959255, in the vicinity of Scott, Morgan and Mayne Streets, North Rothbury, as identified on the Local Provisions Map - subdivision creating 3 lots, each lot having a minimum area of 2000 square metres and the erection of a dwelling-</p>

	<p>house on each lot so created.</p> <p>(2) Lot 3, DP 250551, Lovedale Road, Keinbah - subdivision creating 2 lots, one of which is not to be more than 2 hectares in area, and the erection of a dwelling-house on the lot with the 2 hectare limit.</p> <p>(3) Such parts of Lot 2, DP 1073823, Wine Country Drive, Lovedale, as are identified on the Local Provisions Map - strata subdivision of existing tourist and visitor accommodation development.</p> <p>(4) Such parts of "The Vintage", Wine Country Drive, Pokolbin, as are identified on the Local Provisions Map - subdivision of land and the erection of dwelling-houses, multi-dwelling housing and the like on the lots so created where the subdivision is, in the opinion of the Council, required as an integral part of a major tourist and visitor accommodation development.</p> <p>(5) Such parts of The Oaks Golf and Country Club, Mount View Road, Cessnock, the Department of Corrective Services and the Calvary Retirement Village as are identified on the Local Provisions Map, development for the following purposes:</p> <ul style="list-style-type: none"> <li>• Lot 18 DP 844842, The Oaks Golf and Country Club - serviced apartments and neighbourhood shop.</li> <li>• Part Lot 1 DP 1078864, Calvary Retirement Village – extension of golf course (6 holes).</li> <li>• Part Lot 3 DP 76202, Department of Corrective Services – extension of golf course (1 hole).</li> </ul> <p>This clause has the same effect as clauses 17 (for the Vintage) and 45 (for the remainder) of the Cessnock Local Environmental Plan 1989</p>
<p>15. Subdivision—consent requirements</p>	<p><b>Compulsory</b></p> <p>This clause outlines the consent requirements for subdivision of land.</p> <p>This clause has the same effect as clause 11 of the Cessnock Local Environmental Plan 1989</p>
<p>15A. Temporary use of land</p>	<p><b>Local Provision</b></p> <p>This clause allows transient development to be carried out on any land for a limited period of time, only with development consent. Such transient development may include circus or market stalls and structures associated with a festival.</p> <p>This clause has the same effect as clause 33 of the Cessnock Local Environmental Plan 1989</p>

### PART 3 EXEMPT AND COMPLYING DEVELOPMENT

CLAUSE No.	PROVISION
16. Exempt development	<p><b>Compulsory</b> This clause identifies development of minimal environmental impact as 'exempt development', which may be carried out without the need for development consent.</p> <p>This clause is supported by Schedule 2 of the draft plan, which sets out the standards for exempt development.</p> <p>This clause has the same effect as clause 10A and generally reflects the exempt development provisions within Cessnock DCP 2006 which will be repealed with the gazettal of the new Local Environmental Plan.</p>
17. Complying development	<p><b>Compulsory</b> This clause identifies certain minor or low impact development as 'complying development', for which development consent may be obtained by the issue of a complying development certificate.</p> <p>This clause is supported by Schedule 3 of the draft plan, which sets out the standards for complying development.</p> <p>This clause has the same effect as clause 10A and generally reflects the complying development provisions within Cessnock DCP 2006 which will be repealed with the gazettal of the new Local Environmental Plan.</p>
18. Environmentally sensitive areas excluded	<p><b>Compulsory</b> This clause defines an 'environmentally sensitive area' where exempt or complying development must not be carried out.</p> <p>Additional items have been added to this clause by Council, to further clarify what constitutes an "environmentally sensitive area" in Cessnock LGA, and to maintain the status quo with existing Council mapping</p>

## PART 4 – PRINCIPAL DEVELOPMENT STANDARDS

CLAUSE No.	PROVISION
19. Minimum subdivision lot size	<p><b>Optional</b></p> <p>This clause sets out the minimum lot sizes that apply to the subdivision of land.</p> <p>The objectives of this clause and the minimum lot sizes shown generally reflect the existing subdivision provisions of the Cessnock LEP and DCP.</p> <p>Subclause (3) is a local provision included by Council that identifies alternative minimum lot sizes depending on development requirements.</p> <p>Subclause (4) is a local provision included by Council that permits consent to be granted to a strata title or community title subdivision of an approved dual occupancy, multi dwelling housing, seniors living or shop top housing development that creates a lot smaller than the minimum shown on the Lot Size Map, where that development is in the R2 or R3 Residential zones or a business zone.</p> <p>Subclause (5) is a local provision included by Council that clarifies that the area of any access handle or right-of-carriageway is not to be included in calculations of minimum lots size i.e. the developable portion of the lot has to comply with the minimum lot size specified.</p> <p>This clause has the same effect as clauses 12(1), 13A, 13B, 14, 14B, 15, 17A, 46 and 50 of the Cessnock Local Environmental Plan 1989.</p>
20. Rural Subdivision	<p><b>Compulsory</b></p> <p>This clause provides for subdivision in rural zones for the purpose of primary production to create a lot of a size that is less than that shown on the Lot Size Map</p> <p>Note: a dwelling house cannot be erected on these lots.</p> <p>This clause has the same effect as clause 12(2) and (3) of the Cessnock Local Environmental Plan 1989.</p>
20A Erection of dwelling-houses and dual occupancy housing	<p><b>Local provision</b></p> <p>This clause has the erection of a dwelling-house or dual occupancy housing but without reference to existing holdings as reference to these is now deleted from the LEP.</p> <p>Subclause (1) permits consent to be granted for erection of a dwelling-house or dual occupancy housing on a lot that has an area consistent with the Lot Size Map, or on a lot previously approved for a dwelling under Cessnock LEP 1989, or where a dwelling entitlement is identified on the Local Provisions Map.</p> <p>Subclause (2) allows Council to impose a condition of consent requiring the consolidation of lots when consenting to a dwelling-house or to dual occupancy on land comprising more than one lot, portion or parcel.</p> <p>Subclause (3) ensures that development consent (i.e. not</p>

	<p>development without consent or exempt development) must be granted for a dwelling-house on any land that only has access via an unformed road or unmade road.</p> <p>Subclause (4) introduces matters for Council consideration when considering dual occupancy housing on land in rural or environmental protection zones, to ensure that they have the appearance of an 'integrated' development and minimise disturbance. This is important as the LEP no longer distinguishes between 'attached' and 'detached' dual occupancy development.</p> <p>This clause has the same effect as clause 11(B), 13, 13B, 14A, 14C, 16, 17B, 19, 24, 46, 51 and 59 of the Cessnock Local Environmental Plan 1989.</p> <p>Note 13(2) relating to rural workers dwellings deleted and 13(3) and (4) are not covered in draft plan.</p> <p>Note: Transitional arrangements allow for any DA lodged with Council applying to an existing holding before the gazettal of the draft Plan (but undetermined) will be determined under the pre-existing provisions.</p>
<p>20B Dwelling-houses - residue lots created as a result of a road closure, road widening or road realignment</p>	<p><b>Local Provision</b>  This clause sets out the provisions applying to the erection of a dwelling-house on land created by a road closure, road widening or road realignment.</p> <p>This clause has the same effect as clause 11A of the Cessnock Local Environmental Plan 1989.</p>
<p>21 Height of buildings</p>	<p><b>Compulsory</b>  This clause is not applicable to Cessnock</p>
<p>22 Floor space ratio</p>	<p><b>Compulsory</b>  This clause is not applicable to Cessnock.</p>
<p>23 Calculation of floor space ratio and site area</p>	<p><b>Compulsory</b>  This clause is not applicable to Cessnock.</p>
<p>24. Exceptions to development standards</p>	<p><b>Compulsory</b>  This clause sets out where an exception to a development standard may be requested. Once the LEP is gazetted, SEPP 1 will no longer apply.</p>

## PART 5 – MISCELLANEOUS PROVISIONS

CLAUSE No.	PROVISION
25. Land acquisition within certain zones	<p><b>Compulsory</b> Land that is required to be reserved for acquisition (eg road widening) is to be identified using the Land Reservation Acquisition Map.</p> <p>Reservations currently exist throughout the LGA for the purposes of facilitating future land acquisition by a public authority for uses such as road widening, open space or car parking.</p> <p>All land parcels and segments affected by reservations have been identified. The relevant public authorities have been contacted and asked whether the applicable land reservations are still required. There are many existing land reservations where the reserved use has already been implemented or the reservation is no longer required.</p> <p>This clause has the same effect as clauses 34 and 35 of the Cessnock Local Environmental Plan 1989.</p>
26. Development on proposed classified road	<p><b>Compulsory</b> This clause applies to land reserved for the purposes of a classified road (as defined by the Roads Act, 1993) and sets out requirements relating to development on such land.</p>
27. Classification and reclassification of public land	<p><b>Compulsory</b> This is for new classifications only. Previous reclassification will not be contained in the draft Plan.</p> <p>This clause is supported by Schedule 4 of the draft plan, which can be used to list public land that is newly classified or reclassified, with previous reclassification not be shown.</p> <p>This clause has the same effect as clause 47A of the Cessnock Local Environmental Plan 1989.</p>
28 Development near zone boundaries	<p><b>Optional</b> This clause provides flexibility to allow a use that is permitted on one side of a zone boundary to occur on the immediate other side if this would enable a more logical and appropriate development of the site. The draft Plan provides a buffer of 20 metres.</p> <p>This clause has the same effect as clause 55 of the Cessnock Local Environmental Plan 1989</p>
29. Community use of educational establishments	<p><b>Compulsory</b> This clause allows for educational establishments (schools and TAFEs) to be used for other community purposes.</p> <p>This clause has the same effect as clause 29 of the Cessnock Local Environmental Plan 1989</p>
30 Classified roads	<p><b>Optional</b> This clause provides restrictions on development of land that has frontage to a classified road, if such development does not meet certain criteria.</p> <p>This clause has the same effect as clauses 21 and 22 of the Cessnock Local Environmental Plan 1989.</p>

31. Development in proximity to a rail corridor	<p><b>Compulsory</b></p> <p>The purpose of this clause is to ensure that consideration is given to incorporating practical mitigation measures for certain types of noise sensitive buildings in proximity to an operating or proposed railway. A noise sensitive building could be a school, hospital, dwelling or a place of public worship, or the like.</p> <p>This clause has the same effect as the provisions contained in clause 10 of the Cessnock LEP 1989</p>
32 Development within the coastal zone	<b>This clause is not required</b>
33 Development below mean high water mark	<b>This clause is not required.</b>
34 Preservation of trees and vegetation	<p><b>Optional</b></p> <p>This clause provides for development consent for tree removal and other activities on land outside that affected by the Native Vegetation Act.</p> <p>Cessnock DCP 2006 identifies the locations where to which this clause applies</p> <p>This clause has the same effect as clauses 20, 20B and 30 of the Cessnock Local Environmental Plan 1989.</p>
35 Heritage conservation	<p><b>Compulsory</b></p> <p>Standard clauses have been provided in relation to heritage items and heritage conservation areas. Schedule 5 of the draft Plan lists the items of environmental heritage which are also represented on the heritage map and contains a listing of 259 individual and group heritage items representing national, state and local historical themes and 2 heritage conservation areas covering the Wollombi Village and the landscape of the Great North Road. The items range from collieries and hotels to workers cottages, schools, slab huts, archaeological sites and prehistoric seabeds. See Appendix 5 for more detail on assessment of the proposed list.</p> <p>This clause has the same effect as clauses 36, 37, 38, 39, 40, 41 and 64 of the Cessnock Local Environmental Plan 1989.</p>
36 Bush fire hazard reduction	<p><b>Compulsory</b></p> <p>This clause relates to bushfire hazard reduction. Local provisions for land subject to bushfire hazard, based on latest version of clauses reference the rural Fires Act, will be added.</p> <p>This clause has the same effect as clause 32 of the Cessnock Local Environmental Plan 1989</p>
37 Development for group homes	<p><b>Compulsory</b></p> <p>This clause replaces SEPP 9 - Group Homes which helps to establish permanent and transitional group homes for disabled or socially disadvantaged people in areas where flats are permitted.</p>
38 Crown development and public utilities	<p><b>Compulsory</b></p> <p>This clause provides that nothing in the draft Plan can restrict or prohibit certain Crown development and public utilities.</p> <p>This clause generally replaces Schedule 1 to Clause 35 of the former Model Provisions 1980.</p>

## PART 6 – ADDITIONAL LOCAL PROVISIONS

This section of the LEP contains clauses added by Council to meet the specific local planning needs of Cessnock.

CLAUSE No.	PROVISION
39 Local Definitions	<p><b>Local provision</b> This clause is a local provision which includes any definitions that are required for special areas in the Cessnock LGA, such as the vineyards district or Hunter Economic Zone, and that are not covered by the Standard Instrument Dictionary.</p>
40 Clearing of vegetation in the Hunter Economic Zone	<p><b>Local provision</b> This clause applies to clearing of vegetation in the Hunter Economic Zone.</p> <p>This is a local provision that has been included by Council to maintain the status quo with LEP provisions for HEZ. The zone names have been changes to match the Standard Instrument zones. The clause provides particular controls for clearing in HEZ, which contains a high incidence of Endangered Ecological Communities (EECs).</p> <p>The clause has the same effect as clause 20A of the Cessnock LEP 1989.</p>
41 Subdivision in the Hunter Economic Zone	<p><b>Local provision</b> This clause applies to land in the Hunter Economic Zone and sets out the requirements that apply to the subdivision of this land.</p> <p>This is a local provision that has been included by Council to maintain the status quo with LEP provisions for HEZ. The zone names have been changes to match the Standard Instrument zones. The clause means that speculative subdivision of the land in HEZ cannot be approved. A subdivision can only be granted in relation to, or concurrently with, a development consent for a particular development proposal. This is to ensure that subdivided lots will have sufficient area to contain the development and any required buffers while also adequately protecting any EECs on the land.</p> <p>The clause has the same effect as clause 56 of the Cessnock LEP 1989.</p>
42 Development in the Hunter Economic Zone	<p><b>Local provision</b> This clause applies to Development in the Hunter Economic Zone.</p> <p>This is a local provision that has been included by Council to maintain the status quo with LEP provisions for HEZ, with amendments to reflect current circumstances.</p> <p>Subclauses (1) and (2) have the same effect as subclauses 57(5) and (6) of the Cessnock LEP 1989, with an amendment to reflect the fact that the previously required archaeological investigations have been undertaken and a</p>

	<p>defined area of Aboriginal heritage significance identified for protection through the LEP.</p> <p>Subclause (3) is a new local provision included by Council to reflect and enforce the written agreement with the proprietors of HEZ that a Pelaw Main by-pass road would be constructed, to the satisfaction of Council and the RTA, prior to any major industrial or major employment generating development operating from the HEZ site.</p>
<p>43 Development in the Bow Wow Creek Gorge Catchment and Habitat Corridors</p>	<p><b>Local provision</b> This clause applies to development in the Bow Wow Creek Gorge Catchment and Habitat Corridors.</p> <p>This is a local provision that has been included by Council to reflect the fact that the LEP provisions in Cessnock LEP 1989 relating to the Bow Wow Creek Gorge Catchment and Habitat Corridors have been moved to the DCP. The current provisions of clause 63 of Cessnock LEP 1989 contain detailed requirements regarding density of development, planting of certain numbers of trees for each tourist accommodation unit etc which, if included in the LEP, would constitute 'development standards' and require an LEP amendment for even a minor variation. The provisions also use definitions of "tourist accommodation unit" and tourist accommodation building" which no longer exist in the Standard Instrument dictionary.</p> <p>It is therefore considered more appropriate, and easier to maintain the "status quo" for the controls currently applying to the Bow Wow Creek Gorge Catchment and Habitat Corridors, if the provisions are relocated to the DCP.</p> <p>The new clause makes reference to the relevant part of the DCP and that the consent authority must have regard to the DCP provisions. It also maintains a minimum lot size of 10 hectares for tourist and visitor accommodation in Bow Wow Creek Gorge and habitat corridors, as currently required by clause 63(2) of Cessnock LEP 1989.</p>
<p>44 Rural tourist and visitor accommodation in zones RU1, RU2 and E3</p>	<p><b>Local Provision</b> This clause applies to land within Zones RU1, RU2 or E3 and provides that development for the purposes of tourist and visitor accommodation on land where a dwelling entitlement as provided by clause 20B of this draft Plan.</p> <p>This clause is an adopted direction within the CWSS and is a local provision that has been included by Council to:</p> <ul style="list-style-type: none"> <li>(a) reflect the fact that the LEP provisions in Cessnock LEP 1989 relating to tourist and visitor accommodation in the Vineyards District have been moved to the DCP, and to make reference to the relevant provisions of the DCP;</li> <li>(b) set a minimum lot size of 10 hectares for tourist and visitor accommodation in the RU1 zone; and</li> <li>(c) require any lot for tourist and visitor accommodation in the RU2 or E3 zones to have a dwelling entitlement and a minimum lot size of 10 hectares.</li> </ul> <p>The current provisions of Clause 52 of Cessnock LEP 1989 contain detailed requirements regarding the density of tourist development in the Vineyards District which, if</p>

	<p>included in the LEP, would constitute 'development standards' and require an LEP amendment for even a minor variation. The provisions also use definitions of "tourist accommodation unit" and tourist accommodation building" which no longer exist in the Standard Instrument dictionary.</p> <p>It is therefore considered more appropriate for these controls to be relocated to the DCP.</p>
45 Commercial vineyards in zones RU1, RU2 and E3	<p><b>Local Provision</b>  This clause applies to land within Zones RU1, RU2 or E3 and sets out the requirements that apply to the establishment of new or expansion of an existing commercial vineyard having regard for those measures contained in the development control plan for the Vineyards District.</p> <p>The clause has been updated to reflect the new zone and DCP names, and is required as there is currently no reference to commercial vineyards in the Standard Instrument. The potential conflicts between tourist and visitor accommodation and commercial vineyards warrant special consideration in the LEP and is included by Council to replace clause 53 in Cessnock LEP 1989</p>
46 Development in Flight Paths	<p><b>Local Provision</b>  This clause applies to land within the flight path of the Cessnock airport.</p> <p>This clause provides that consent must not be granted for a building above the obstacle height limitation surface for that airport.</p> <p>This clause has the same effect as clauses 25 of the Cessnock Local Environmental Plan 1989</p>
47 Development in areas subject to airport noise	<p><b>Local Provision</b>  This clause applies to certain land at Nulkaba, being land affected by Australian Noise Exposure Forecast contours of between 20 and 25, as identified on the Local Provisions Map.</p> <p>This clause provides that consent must not be granted for a building for residential purposes, or intended for human occupation, on land to which this clause applies.</p> <p>This clause has the same effect as clause 25A of the Cessnock Local Environmental Plan 1989</p>
48 Exhibition Home	<p><b>Local Provision</b>  This clause provides for the use a dwelling on land within the Residential R2 zone as an exhibition home only.</p> <p>This clause has the same effect as clause 49 of the Cessnock Local Environmental Plan 1989</p>

## PART 7 – URBAN RELEASE AREAS

CLAUSE No.	PROVISION
49 Aims of Part	<p><b>Local Provision</b> This clause sets out the aims for this schedule of the draft Plan.</p> <p>This is a new local provisions provided by the Department of Planning to address State Infrastructure provisions.</p>
50 Relationship between Part and remainder of plan	<p><b>Local Provision</b> This clause provides for this part of the draft Plan to prevail over any other provision of this plan to the extent of any inconsistency.</p> <p>This is a new local provisions provided by the Department of Planning to address State Infrastructure provisions.</p>
51 Restriction on certain subdivisions – infrastructure, facilities and services	<p><b>Local Provision</b> This clause applies to land that is in an urban release area as shown outline bold black on the Local Provisions Map. However, it 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 EPA Act)</p> <p>The purpose of this clause is to require assistance towards the provision of State Public infrastructure and services.</p> <p>This is a new local provisions provided by the Department of Planning to address State Infrastructure provisions.</p>
52 Development Control Plan	<p><b>Local Provision</b> This clause provides sets out the requirements for the provisions of adequate infrastructure within an urban release area to be incorporated into a development control plan.</p> <p>This is a new local provisions provided by the Department of Planning to address State Infrastructure provisions.</p>
53 Public utility infrastructure	<p><b>Local Provision</b> This clause provides that development consent must not be granted until adequate arrangements have been made for infrastructure.</p> <p>This is a local provision inserted by Council to address the need for local infrastructure to be provided when required</p>

## SCHEDULES

SCHEDULE No.	OUTLINE
1 Additional Permitted Uses	<p><b>Compulsory</b> This schedule supports clause 14 of the draft Plan.</p> <p>Five (5) areas in the Cessnock LGA permit additional uses contrary to the zoning. Schedule 1 of the LEP provides a list of sites with additional permitted uses, including:-</p> <ol style="list-style-type: none"> <li>(1) Unnumbered lot, DP 959255, in the vicinity of Scott, Morgan and Mayne Streets, North Rothbury, as identified on the Local Provisions Map - subdivision creating 3 lots, each lot having a minimum area of 2000 square metres and the erection of a dwelling-house on each lot so created.</li> <li>(2) Lot 3, DP 250551, Lovedale Road, Keinbah - subdivision creating 2 lots, one of which is not to be more than 2 hectares in area, and the erection of a dwelling-house on the lot with the 2 hectare limit.</li> <li>(3) Such parts of Lot 2, DP 1073823, Wine Country Drive, Lovedale, as are identified on the Local Provisions Map - strata subdivision of existing tourist and visitor accommodation development.</li> <li>(4) Such parts of "The Vintage", Wine Country Drive, Pokolbin, as are identified on the Local Provisions Map - subdivision of land and the erection of dwelling-houses, multi-dwelling housing and the like on the lots so created where the subdivision is, in the opinion of the Council, required as an integral part of a major tourist and visitor accommodation development.</li> <li>(5) Such parts of The Oaks Golf and Country Club, Mount View Road, Cessnock, the Department of Corrective Services and the Calvary Retirement Village as are identified on the Local Provisions Map, development for the following purposes: <ul style="list-style-type: none"> <li>• Lot 18 DP 844842, The Oaks Golf and Country Club - serviced apartments and neighbourhood shop.</li> <li>• Part Lot 1 DP 1078864, Calvary Retirement Village – extension of golf course (6 holes).</li> <li>• Part Lot 3 DP 76202, Department of Corrective Services – extension of golf course (1 hole).</li> </ul> </li> </ol>
2. Exempt Development	<p><b>Compulsory</b> This schedule supports clause 16 of the draft Plan.</p> <p>Exempt provisions are currently contained in the Cessnock DCP 2006, which have been reviewed and amended for inclusion in the draft Plan.</p>

3. Complying Development	<p><b>Compulsory</b> This schedule supports clause 17 of the draft Plan.</p> <p>Complying provisions are currently contained in the Cessnock DCP 2006, which have been reviewed and amended for inclusion in the draft Plan.</p>
4. Classification and Reclassification of Public Land	<p><b>Compulsory</b> This schedule supports clause 27 of the draft Plan.</p> <p>This schedule is similar to Schedule 6 of the Cessnock LEP and is for new classifications only. Previous reclassification will not be contained in the draft Plan.</p>
5 Environmental Heritage	<p><b>Compulsory</b> This schedule supports clause 35 of the draft Plan and lists the items of environmental heritage which are represented on the heritage map.</p> <p>This list contains of 259 individual and group heritage items representing national, state and local historical themes and 2 heritage conservation areas covering the Wollombi Village and the landscape of the Great North Road.</p> <p>The items range from collieries and hotels to workers cottages, schools, slab huts, archaeological sites and prehistoric seabeds.</p>

## LAND USE TABLE

The following table shows the general transition from the current Cessnock Local Environmental Plan 1989 to the draft Cessnock Local Environmental Plan 2008.

<b>Rural Zones</b>	
RU1 Primary Production	1(v) - Rural (Vineyards) Zone
RU2 Rural Landscape	1(a) - Rural "A" Zone 1(c1) - Rural (Small Holdings) Zone 1(a1) - Rural "A1" Zone proposed Rural Lifestyle (CWSS 2003) proposed Rural Living (CWSS 2003)
RU3 Forestry	1(f) - Rural (Forestry) Zone
RU5 Village	2(b) - Village Zone
<b>Residential Zones</b>	
R2 Low Density Residential	2(a) - part Residential "A" Zone 2(c) - Residential (Development Control Area) Zone
R3 Medium Density Residential	2(a) - part Residential "A" Zone
R5 Large Lot Residential	1(c) - Rural - Residential/Rural (Small Holdings) Zone 1(c2) - Rural (Small Holdings) Zone proposed Residential Lifestyle (CWSS 2003)
<b>Business</b>	
B1 Neighbourhood Centre	3(b) - Neighbourhood Business Zone
B2 Local Centre	3(a) - General Business Zone (Branxton & Weston) 3(c) - Support Centre Zone (Kurri Kurri)
B3 Commercial Core	3(a) - General Business Zone
B4 Mixed Use	3(c) - Support Centre Zone
B7 Business Park	3(e) - Business Park Zone
<b>Industrial</b>	
IN2 Light Industrial	4(b) - Light Industrial Zone
IN3 Heavy Industrial	4(a) - Industrial Zone

<b>Special Purpose</b>	
SP1 Special Activities	4(h) - Hunter Employment Zone
SP2 Infrastructure	5(a) - Special Uses Zone 5(b) - Special Uses (Railways) Zone 5(c) - Proposed Arterial Road Zone 5(d) - Proposed Local Road Zone 5(e) - Special Uses (Aerodrome) Zone
<b>Recreation</b>	
RE1 Public Recreation	6(a) - Open Space Zone 6(b) - Proposed Open Space Zone
RE2 Private Recreation	6(c1) - Private Recreation Zone
<b>Environmental Protection</b>	
E1 National Parks and Nature Reserves	8(a) - National Parks and Nature Reserves Zone
E2 Environmental Conservation	7(b) - Environmental Protection (Conservation) Zone 7(d1) - Environmental Protection (Scenic) Zone Proposed environmental protection wetland zone (CWSS 2003)
E3 Environmental Management	1 (bwc) Bow Wow Creek Gorge Catchment Zone steep lands in the western part of the City Proposed national park in holding zone (CWSS 2003)