



PLANNING CERTIFICATE

Section 149, Environmental Planning and Assessment Act 1979

To: ASQUITH & DE WITT PTY LTD
PO BOX 179
CHARLESTOWN NSW 2290

Certificate No: 137505
Fee Paid: \$ 100.00
Receipt No(s): 2228513

Attention: KRISTY CLIFFORD
Your Reference: 37842

Date of Issue: 16/04/08

The Land: LOT 132 DP 1053492.
2 LOOKOUT RD, NEW LAMBTON HEIGHTS.

Advice provided on this Certificate:

Advice under section 149(2): see items 1 – 14
Additional advice under section 149 (5): see Items 15 – 25

IMPORTANT: Please read this certificate carefully

This certificate contains important information about the land.

Please check for any item which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, phone Council's **Customer Enquiry Centre** on (02) 4974 2030, or come in and see us.

The information provided in this certificate relates only to the land described above. If you need information about adjoining or nearby land, or about the Council's development policies for the general area, contact Council's **Customer Enquiry Centre**.

All information provided is correct as at 16/04/2008. However, it's possible for changes to occur within a short time. We recommend that you only rely upon a very recent certificate.

Newcastle City Council

PO Box 489
NEWCASTLE 2300

Phone: (02) 4974 2000
Facsimile: (02) 4974 2505

Enquiries:

S149 Cert: (02) 4974 2511
Rates (02) 4974 2306

In person: Customer Enquiry Centre
Ground floor,
282 King Street, Newcastle

Office hours:

Mondays to Fridays 8.30 am to 5.00 pm

PART 1:

ADVICE PROVIDED UNDER SECTION 149(2)

ATTENTION: The explanatory notes appearing in italic print within Part 1 are provided to assist understanding, but do not form part of the advice provided under section 149(2). These notes shall be taken as being advice provided under section 149(5).

1. Relevant SEPPs, REPs, LEPs and DCPs

The following environmental planning instruments, draft environmental planning instruments and development control plans apply to the land, either in full or in part.

State Environmental Planning Policy No. 1—Development Standards

State Environmental Planning Policy No. 4—Development without Consent and Miscellaneous Exempt and Complying Development

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy No. 6—Number of Storeys in a Building

State Environmental Planning Policy No. 8—Surplus Public Land

State Environmental Planning Policy No. 9—Group Homes

State Environmental Planning Policy No. 10—Retention of Low-cost Rental Accommodation

State Environmental Planning Policy No. 11—Traffic Generating Developments

State Environmental Planning Policy No. 21—Caravan Parks

State Environmental Planning Policy No. 27—Prison Sites

State Environmental Planning Policy No. 30—Intensive Agriculture

State Environmental Planning Policy No. 32—Urban Consolidation (Redevelopment of Urban Land)

State Environmental Planning Policy No. 33—Hazardous and Offensive Development

State Environmental Planning Policy No. 35—Maintenance Dredging of Tidal Waterways

State Environmental Planning Policy No. 36—Manufactured Home Estates

State Environmental Planning Policy No. 44—Koala Habitat Protection

State Environmental Planning Policy No. 48—Major Putrescible Landfill Sites

State Environmental Planning Policy No. 50—Canal Estate Development

State Environmental Planning Policy No. 55—Remediation of Land

State Environmental Planning Policy No. 62—Sustainable Aquaculture (Amendment No 2)

State Environmental Planning Policy No. 64—Advertising and Signage

State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development Broadband

State Environmental Planning Policy No. 72—Linear Telecommunications Development – Broadband

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Repeal ARTC Rail Infrastructure) 2004

State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Infrastructure) 2007

Hunter Regional Environmental Plan 1989

Newcastle Local Environmental Plan 2003

Newcastle Development Control Plan 2005

2. Zoning and land use under relevant LEPs

Newcastle Local Environmental Plan 2003

Zoning: The Newcastle Local Environment Plan 2003 identifies the land as being within the following zone:

5(a) Special Uses Zone - Hospital

The following is an extract from the Table to clause 16 of the Newcastle Local Environment Plan 2003:

Zone 5(a) Special Uses Zone

- **Manner shown on zoning map**

Land in this zone is edged heavy black and marked "5(a)" or coloured dark blue on the zoning map, followed by a particular land use nominated in respect of the site.

- **Zone objectives**

- (a) To accommodate major transport networks and facilities.
- (b) To accommodate large scale facilities and services, together with ancillary activities.
- (c) To accommodate large scale community establishments, together with ancillary activities.
- (d) To require development to be integrated and reasonably consistent in scale and character with surrounding natural, rural or urban environments.

- **Development without consent**

Except as otherwise provided by this plan, the following do not require consent:

- (a) exempt development identified in clause 10,
- (b) utility undertakings described in Schedule 4 when carried out by a public authority,
- (c) anything specified in section 4B (3) of the Act,
- (d) development below high water mark for purposes related to the operation of the Port of Newcastle by the Newcastle Port Authority,
- (e) environmental protection works,
- (f) emergency bush fire hazard reduction work or fire fighting acts,
- (g) managed bush fire hazard reduction work on land other than excluded land.

- **Development only with consent**

Any development not identified in, development without consent or prohibited development.

- **Prohibited development**

Development for the purpose of:

advertising structures
aerodromes
airstrips
animal establishments
automotive services
brothels
bulky goods retail outlets
camping grounds or caravan parks
car repair stations
clubs

commercial premises
exhibition villages
extractive industries
hazardous industries
hazardous storage establishments
heliports
hotels
industries other than light industries
intensive agriculture
liquid fuel depots
marinas
mines
motor showrooms
natural water-based aquaculture
offensive industries
offensive storage establishments
places of assembly
pond-based aquaculture
ports
roadside stalls
sex aid establishments
sexual entertainment establishments
shops
tank-based aquaculture
transport depots
warehouses

NOTE: The above advice relates only to restrictions that apply by virtue of the zones indicated. The Newcastle Local Environmental Plan 2003 includes additional provisions that require development consent for particular types of development, or in particular circumstances, irrespective of zoning.

Minimum land dimensions for erection of a dwelling-house: The Newcastle Local Environmental Plan 2003 does not contain any development standards relating to minimum land dimensions for the erection of a dwelling-house (development standards relating to complying development referred to in Schedule 3 excepted).

Critical habitat: The Newcastle Local Environmental Plan 2003 does not identify the land as including or comprising critical habitat.

Heritage conservation area: The land is not within a heritage conservation area under the Newcastle Local Environmental Plan 2003.

Heritage Items: A heritage item listed in Schedule 6 to the Newcastle Local Environmental Plan 2003 is situated on the land. Refer to clause 14 and Part 4 of the Newcastle Local Environmental Plan 2003 for provisions relating to development involving a heritage item.

3. (Repealed)

4. Coastal Protection Act 1979

The land IS NOT AFFECTED by the operation of sections 38 or 39 of the Coastal Protection Act 1979.

5. Mine Subsidence Compensation Act 1961

The land IS within a proclaimed Mine Subsidence District under the Mine Subsidence Compensation Act 1961. The approval of the Mine Subsidence Board is required for all subdivision and building, except for certain minor structures. Surface development controls are in place to prevent damage from old, current or future mining. It is strongly recommended prospective purchasers consult with the Mine Subsidence Board regarding mine subsidence and any surface development guidelines. The Board can assist with information about mine subsidence and advise whether existing structures comply with the requirements of the Act.

NOTE: Plans of existing and abandoned mine workings are available for viewing at the Mine Subsidence Board's offices. For further clarification and details, contact the Mine Subsidence Board, 117 Bull Street, Newcastle West. Ph (02) 49084300.

6. Road widening or realignment

NOTE: The Roads and Traffic Authority may have proposals that are not referred to in this item. For advice about affectation by RTA proposals, contact the Roads and Traffic Authority, Locked Mail Bag 30 Newcastle 2300. Ph: 13 1782.

The land IS NOT AFFECTED by any road widening or road realignment under Division 2 of Part 3 of the Roads Act 1993.

The land IS NOT AFFECTED by any road widening or road realignment under an environmental planning instrument.

The land IS NOT AFFECTED by any road widening or road realignment under a resolution of the Council.

7. Policies on hazard risk restrictions

Except as stated below, the land is not affected by a policy referred to in Item 7 of Schedule 4 of the Environmental Planning and Assessment Regulation 2000 that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

Earthquake: The Council has adopted standards for earthquake resistant construction in a Local Approvals Policy titled "Building Materials & Practices Structural Quality Policy" (dated 11 July 1995). This document may be inspected or purchased at Council's Customer Enquiry Centre.

Potential acid sulphate soils: Works carried out on the land must be undertaken in accordance with clause 25 of the Newcastle Local Environmental Plan 2003.

Bush fire: Under clause 26 of the Newcastle Local Environmental Plan 2003, the consent authority shall not grant consent to development on bush fire prone land unless the consent authority is satisfied with the measures proposed to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.

Land Contamination: Council's information currently indicates that the property may be affected by Land Contamination. Council has adopted a policy of restricting development or imposing conditions on properties affected by Land Contamination. Refer to the Newcastle Development Control Plan 2005, which may be inspected or purchased at Council's Customer Enquiry Centre.

NOTE: The absence of a policy to restrict development of the land because of the likelihood of a particular risk does not imply that the land is free from that risk. The Council considers the likelihood of natural and man-made risks when determining development applications under section 79C of the Environmental Planning and Assessment Act 1979. Detailed investigation carried out in conjunction with the preparation or assessment of a development application may result in the Council either refusing development consent or imposing conditions of consent on the basis of risks that are not identified above.

7A. Flood related development controls information

Council's information currently indicates that the property is, or contains, flood prone land as defined in the Floodplain Development Manual: the management of flood liable land, April 2005 published by the NSW Government.

Development of flood prone land is controlled by Element 4.3 of the Newcastle Development Control Plan 2005. The Newcastle Development Control Plan 2005 provides restrictions or imposes conditions with respect to all development of flood prone land. This includes development for the purpose of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings.

The Newcastle Development Control Plan 2005 may be inspected or purchased at Council's Customer Enquiry Centre.

NOTE: More detailed flood information specific to the property is available on separate flooding certificate application through Council's Customer Enquiry Centre on (02) 4974 2050.

8. Land reserved for acquisition

The land is not identified for acquisition by a public authority (as referred to in section 27 of the Act) by any environmental planning instrument or draft environmental planning instrument applying to the land.

9. Contributions plans

The following contribution plan/s apply to the land.

Section 94A Development Contributions Plan 2006:

The Plan specifies section 94A contributions that may be imposed as a condition of development consent.

NOTE: Contributions plans are available on Council's website or may be inspected or purchased at Council's Customer Enquiry Centre.

10. Contaminated Land Management Act 1997

Council is in possession of the following site audit statement which may be examined upon request by contacting our Environmental Services Unit, phone (02) 4974 2525.

□ Site Audit Statement No. PWH_NSW_031 (20/3/07) produced by Phillip Hitchcock of Environ Australia Pty Ltd. DataWorks Document Number: 2012039.

NOTE: Contamination information that relates to the land that is not required to be disclosed under section 59(2) Contaminated Land Management Act 1997, may be provided under a section 149(5) certificate.

11. Bush fire prone land

The land, either in whole or in part IS bush fire prone land for the purposes of the Environmental Planning and Assessment Act 1979.

12. Property vegetation plans

Not applicable. The Native Vegetation Act 2003 does not apply to the Newcastle local government area.

13. Orders under Trees (Disputes Between Neighbours) Act 2006

Council HAS NOT been notified that an order has been made under the Trees (Disputes between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

14. Conditions affecting seniors housing

The land IS NOT AFFECTED by matters required to be disclosed under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

PART 2:

ADVICE PROVIDED UNDER SECTION 149(5)

ATTENTION: Section 149(6) of the Act states that a Council shall not incur any liability in respect of advice provided in good faith pursuant to sub-section 149(5).

15. Outstanding written request issued by Council.

The land IS NOT AFFECTED by an outstanding written request issued by Council.

NOTE: The Council has not inspected the premises immediately prior to the issue of this certificate. It is possible that the premises are affected by matters of which the Council is unaware.

NOTE: This Certificate does not include any advice regarding outstanding notices or orders issued under the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 or the Swimming Pool Act 1992. To obtain advice regarding these matters, you should lodge an application for a Certificate as to Outstanding Notices and Orders (accompanied by the appropriate fee). For further information, please contact the Customer Enquiry Centre on (02) 4974 2030.

16. Development consents

Development consent HAS been granted in relation to the land within the five years preceding the date of this certificate. Summary details are as follows:

Consent No.:	DA 06/0511	Date:	29/03/2007
Consent No.:	DA 06/1589	Date:	1/12/2006
Consent No.:	DA 06/0028	Date:	6/09/2006
Consent No.:	DA 06/0771	Date:	14/06/2006

NOTE: More information about these consents may be obtained by inspecting the Register of Development Consents at the Council's Customer Enquiry Centre.

The consents listed above are the most recently granted. There are further consents not listed above. A full list may be obtained by inspecting the Register of Development Consents at the Council's Customer Enquiry Centre.

17. Further consent requirements under Newcastle Local Environmental Plan 2003

The following provisions of the Newcastle Local Environmental Plan 2003 affect the carrying out of development on the land. These provisions are in addition to those required to be disclosed at Item 2 of this Certificate.

Development that does not require consent: Clause 13 provides that, except as otherwise provided by this plan, the following do not require development consent:

- (a) exempt development identified in clause 10,
- (b) utility undertakings described in Schedule 4 when carried out by a public authority,
- (c) anything specified in section 4B (3) of the Act,
- (d) development below high water mark for purposes related to the operation of the Port of Newcastle by the Newcastle Port Authority,
- (e) environmental protection works,
- (f) emergency bush fire hazard reduction work or fire fighting acts,
- (g) managed bush fire hazard reduction work on land other than excluded land.

Development that requires consent: Clause 14 provides that, except as otherwise provided by this plan, the following may be carried out only with development consent:

- (a) a use of land,
- (b) the subdivision of land,
- (c) the erection of a building,
- (d) the carrying out of a work, including:
 - (i) the excavation, filling or dredging of land, and
 - (ii) the disposal of waste,
- (e) the removal or pruning of a tree or the clearing of native vegetation,
- (f) the injuring or poisoning of a tree,
- (g) the demolition or removal of a building, work, relic or place in whole or in part,
- (h) works involving a heritage item or within a heritage conservation area involving the alteration of a building, work or relic by making structural or non-structural changes to the detail, fabric, finish or

appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care which would not adversely affect any heritage significance it may have,

- (i) altering a heritage item by making structural or non-structural changes to the detail, fabric, finish or appearance of its interior, except changes resulting from any maintenance necessary for its ongoing protective care which would not adversely affect any heritage significance it may have,
- (j) disturbing or excavating a place of Aboriginal heritage significance or 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 or destroyed,
- (k) the moving to another location of a building or relic,
- (l) the display of an advertising sign,
- (m) the carrying out of a utility undertaking described in Schedule 4 otherwise than by a public authority.

Development that is prohibited: Clause 15 provides that, except as otherwise provided by this plan, the following development is prohibited:

- (a) development for the purpose of hazardous industries, hazardous storage establishments, offensive industries or offensive storage establishments,
- (b) the carrying out of particular land uses within a zone if nominated as prohibited development in the zone [refer to Item 2 of this Certificate].

Existing uses: 'Existing uses' (as defined in section 106 of the Environmental Planning and Assessment Act 1979) may in specified circumstances, be enlarged, expanded, intensified, altered, extended, rebuilt or changed with development consent. See Part 5 of the Environmental Planning and Assessment Regulation 2000. These provisions are deemed by section 108(2) of the Act to be incorporated in the Newcastle Local Environmental Plan 2003.

NOTE: There are other provisions within the Newcastle Local Environmental Plan 2003 that affect the carrying out of development. If you propose to carry out development on the land, you should consider the need to obtain further professional advice regarding the full effect of the Newcastle Local Environment Plan 2003 and other environmental planning instruments.

18. Suspension of covenants

Under clause 18 of the Newcastle Local Environmental Plan 2003, any covenant, agreement or like instrument, which is contrary to development that is permitted and for which consent has been granted under the Plan, does not apply to the extent to which the covenant, agreement or instrument would prevent or restrict the development from being undertaken in accordance with the consent.

NOTE: Covenants that burden neighbouring land (and which benefit the subject land) may also have been suspended. In determining a development or building application, the Council is not required to take into consideration whether the proposed development or building would comply with any applicable covenant. The Council holds no records on the existence of covenants, nor does it carry out a title search when assessing applications. The enforcement of covenants is a private matter between covenantees.

19. Unexhibited draft local environmental plans

The land IS NOT AFFECTED by a resolution of Council to prepare a draft local environmental plan which has yet to be placed on exhibition pursuant to section 66(1)(b) of the Act.

20. Draft development control plans

The following draft development control plan/s APPLY to the land. The draft plan/s has been exhibited pursuant to Part 3 of the Environmental Planning and Assessment Regulation 2000.

Draft Newcastle Development Control Plan 2005 - Tree Management.

21. Heritage Act 1977

The land IS NOT AFFECTED by a listing on the State Heritage Register or an Interim Heritage Order that is in force under the Heritage Act 1977.

NOTE: The above advice is provided to the extent that Council has been notified by the Heritage Council of NSW. For up-to-date details, contact the Heritage Office, Governor Macquarie Tower, 1 Farrer Place Sydney 2000. Ph: (02) 9391 2255.

22. Listings by the National Trust of Australia

The land IS AFFECTED by a listing of the National Trust of Australia (NSW).

NOTE: The above advice is provided to the extent that Council has been notified by the National Trust of Australia (NSW). For up-to-date details, contact the National Trust.

23. Register of the National Estate

The land IS NOT AFFECTED by a listing on the Register of the National Estate.

NOTE: The above advice is provided to the extent that Council has been notified by the Australian Heritage Commission. For up-to-date details, contact the Australian Heritage Commission, 39 Brisbane Avenue, Barton ACT 2600. Ph (02) 6271 2111.

24. Environment Protection & Biodiversity Conservation Act 1999 (Cth)

Under the (Commonwealth) *Environment Protection and Biodiversity Conservation Act 1999*, actions which have, may have or are likely to have, a significant impact on a matter of national environmental significance may be taken only with the approval of the Commonwealth Minister for the Environment.

Approval is also required for actions that have a significant effect on the environment of Commonwealth land. These actions may be on Commonwealth land or other land.

This approval is in addition to any approvals under the (NSW) *Environmental Planning and Assessment Act 1979* or other NSW legislation.

Matters of national environmental significance are:

- declared World Heritage areas
- declared Ramsar wetlands
- listed threatened species and ecological communities
- listed migratory species
- nuclear actions
- the environment of Commonwealth marine areas.

Locations within the City of Newcastle that are a declared Ramsar wetland include Kooragang Nature Reserve and Shortland Wetlands. Listed threatened species and listed migratory species are known to occur within the City of Newcastle.

25. Other matters

The land is affected by the following:

Newcastle earthquake

Earthquakes occurred in the vicinity of Newcastle on 28th December 1989 and 6 August 1994. Buildings on the land may have suffered damage as a consequence of the earthquakes. Prospective purchasers are advised to make their own enquiries as to whether the property is affected by any damage.

Newcastle Urban Strategy

The Newcastle Urban Strategy was adopted by the Council on 11 March 1998. The contents of the Strategy will be taken into account when the Council determines development applications.

Note: The Strategy is available for purchase from Council's Customer Enquiry Centre.

Contaminated land information

This land has been identified as being affected by soil or groundwater contamination. Council is in possession of the following report(s) which may be examined upon request by contacting our Environmental Services Unit, phone (02) 4974 2525. Recommendations have been made regarding restrictions or special conditions over the use or development of the land. Persons relying on this certificate are advised to examine and consider the contents of each report

Report 1: HLA Envirosiences Pty Ltd (1 November 2006) Preliminary Environmental Site Assessment Proposed Newcastle Private Hospital Multi-Level Car park Lookout Road, Rankin Park NSW. HLA Ref: N4058601-RPT_1Nov06. Dataworks Document Number 1844543.

Report 2: HLA Envirosiences Pty Ltd (19 January 2007) Remedial Action Plan Proposed Newcastle Private Hospital Multi-Level Car park, Lookout Road, Rankin Park NSW. Dataworks Document Number 1850854.

Report 3: HLA Envirosiences Pty Ltd (11 August 2006) Preliminary Site Assessment John Hunter Access Road Off Lookout Road, New Lambton, NSW. HLA N4050101_Final RPT_11Aug06. DataWorks Document Number: 1982508.

Report 4: HLA Envirosiences Pty Ltd (25 August 2006) Guidance for the Placement of Geotextile Barrier for John Hunter Hospital 2nd Access Road Off Lookout Road, New Lambton, NSW. HLA N4050102_Geo Rpt_Aug06. doc. DataWorks Document Number: 2012024.

Report 5: HLA Envirosiences Pty Ltd (31 October 2006) Technical Specification Removal of Asbestos Contaminated Material John Hunter Hospital 2nd Access Road Off Lookout Road Project, New Lambton, NSW. HLA N4050103_TECH_SPEC_FINAL_31OCT06. DataWorks Document Number 1982064.

Report 6: HLA Envirosiences Pty Ltd (24 January 2007) Remedial Action Plan Removal of Asbestos Contaminated Material John Hunter Hospital 2nd Access Road Off Lookout Road Project, New Lambton, NSW. HLA N4050104_RAP_17Jan07. DataWorks Document Number 198204.

Report 7: Site Audit Report Second Access Road, John Hunter Hospital, New Lambton Heights, NSW for Bovis Lend Lease Pty Ltd. March 2007. Produced by Phillip Hitchcock of Environ Australia Pty Ltd. Ref: 32-0084. DataWorks Document Number: 1849147.

ATTACHMENTS: NONE

Issued without alterations or additions, 16/04/08.



for:
GRAHAM CLARKE
ACTING GENERAL MANAGER