

88(b) Instrument

A legal document supporting a Deposited Plan (DP) which provides details of any restrictions such as easements or covenants affecting a particular parcel of land. The document contains information in accordance with Section 88(b) of the Conveyancing Act 1919.

Ancillary Use

A secondary use that is closely related to the predominant use of an approved building or a parcel of land.

BASIX (Building and Sustainability Index)

BASIX aims to improve the energy and water efficiency of dwellings. The design of a dwelling must meet certain targets in order to obtain a BASIX Certificate. A BASIX Certificate must be provided with any DA for a new home.

Buffer

Land set aside for the purpose of separating land areas where uses are incompatible (e.g. vegetation separating residential development from a railway line or busy road).

Building Certificate

A building certificate is a document certifying that Council will not take action or issue orders in relation to a building for a period of 7 years, but does not grant approval for a structure.

Building Code of Australia (BCA)

The Building Code of Australia (BCA) is a set of rules and provisions relating to the design and construction of buildings throughout Australia.

Catchment

The given area of land in which surface water and groundwater is captured by rivers, lakes and other watercourses. Typically defined by mountain ranges and tributaries that originate in upper regions of the topography, and the destination water source.

Classification of Public Land

According to the Local Government Act 1993, land owned or managed by Council must be classified as either 'community' or 'operational' land. This is separate to land use zoning, which also applies to public land.

Complying Development

Development that meets the Complying Development criteria of Council, but does not need a DA or a CC. Involves small scale developments like minor dwelling alterations and additions, internal shop or office works, garages, carports, swimming pools, sheds etc.

Comprehensive LEP

A Local Environmental Plan which is prepared for all land within a Local Government Area. May result in the zoning of land changing to reflect a more appropriate use for a site, particularly when a Council's current LEP may be dated. The NSW Department of Planning has ordered that all local Councils within NSW prepare a new Comprehensive LEP by March 2011, in accordance with the Standard Instrument (Local Environmental Plans) Order 2006.

Conditions of Consent

Requirements annexed to a DA approval to control or direct the manner in which a development is carried out.

Consent Authority

The authority (being Council, a NSW Department or the Minister for Planning) having the legal ability to grant or refuse development consent.

Construction Certificate (CC)

After a DA is approved by Council, a CC is needed before work commences. A CC is an approval that:

- (i) Ensures that the construction plans and specifications comply with the BCA and any other applicable Australian standards
- (ii) Confirms that the construction plans and specifications are consistent with the conditions of consent annexed to the DA
- (iii) Confirms that the relevant DA conditions have been addressed
- (iv) Confirms that all necessary contributions and Council fees have been paid.

Contaminated Land

Land that has previously been polluted making it unfit for development and habitation unless remediated.

Covenants

A covenant is a restriction on the use of the land imposed by a Council and/or developer to ensure that development on each lot meets the specific design and land use guidelines. The wording of the covenant(s) is shown on a separate legal document (sometimes called an "88b Instrument") attached to the Deposited Plan.

Department of Planning (DoP)

The state government department responsible for administering the Environmental Planning & Assessment Act, 1979.

Deposited Plan (DP)

A Deposited Plan (DP) is the plan number given to a subdivision that is registered by the NSW Land and Property Information Office (LPI). The DP contains a plan showing numbered lots, while an 88(b) Instrument is a legal document that may accompany the DP which outlines any easements or restrictions on the land. e.g. Lot 1 DP1234

Designated Development

A development that is likely to have significant impacts on the environment and is therefore subject to special regulatory procedures. A detailed Environmental Impact Statement (EIS) is required, and third party appeal rights apply. A list of Designated Developments is provided in Schedule 3 of the EP&A Regs 2000. Examples include mines, extractive industries, turf farms and livestock intensive industries.

Development

Defined in the EP & A Act 1979 as: (a) the use of land, and (b) the subdivision of land, and (c) the erection of a building, and (d) the carrying out of a work, and (e) the demolition of a building or work, and (f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument, but does not include any development of a class or description prescribed by the regulations for the purposes of this definition.

Development Application (DA)

An application for development clearly describing the development proposed, the land on which it will occur, Statement of Environmental Effects (SoEE) and any other required supporting information. A DA is assessed against SEPPs, REPs, the LEP, any relevant DCPs and the list of considerations in the EP&A Act before being determined.

Development Consent

Formal notice of approval of DA with conditions which applies to the land, not the land owner. Typically lapses within 5 years from the date of consent, if not acted upon by the commencement of works.

Development Control Plan (DCP)

Detailed guidelines that illustrate the controls which apply to (i) a particular type of development or (ii) development in a particular locality. A DCP refines or supplements a REP or LEP and is made according to the *Environmental Planning and Assessment Act 1979*.

Easement

An easement is a restriction on the use of land. The width and location of an easement is shown on the Deposited Plan and its purpose is defined under an accompanying 88(b) instrument.

Elevation Plans

Plans showing the facades (or faces) of a building. Usually drawn at 1:100 scale, each elevation plan should depict the heights of both the eave and ridgeline of the building from natural ground level.

Environmental Impact Statement (EIS)

Required to support an application for Designated Development, which must identify any anticipated environmental impacts associated with the proposal and offer methods of eliminating or reducing those impacts.

Environmentally Sensitive Features

These features include, but are not limited to, bushfire prone land, waterways, endangered ecological communities (EECs), heritage conservation areas, threatened species, flood prone areas and mine subsidence areas.

Environmental Planning & Assessment Act, 1979 (EP&A Act)

The principal legislation directing the landuse planning system in NSW, referred to as "the Act".

Environmental Planning & Assessment Regulation, 2000 (EP&A Regs)

The Regulations associated with the Act, containing procedures for making and assessing DAs, preparing DCPs, Section 94 contributions plans and LEPs, amongst other matters.

Environmental Planning Instrument (EPI)

Plans that are legally binding under the EP&A Act, 1979. Includes SEPPS, REPS and LEPS, but not DCPs. They are made according to the Act. Plans made prior to 1979 are deemed EPIs.

Exempt development

Minor forms of development which are exempt from the need for development consent providing they meet certain criteria specified by Council. These criteria and the forms of development which are exempt are listed in Council's Exempt and Complying Development list.

Existing Use Rights

The accepted right for the legal use of a site to continue after the town planning requirements may have been changed to discourage the particular use on that site.

Floodplain

A low lying area adjoining a watercourse, which is subject to periodic, semi or complete inundation. These areas typically accommodate the greatest volumes of water and fastest flow rates during flood events.

Floor Plan

This is a plan drawn to scale (e.g. 1:100) showing the location and use of rooms within a building. It should include the dimensions and the locations of doors, windows, archways, and the location of equipment where development involves a business.

Geographic Information System (GIS)

A computer-based system whereby mapping and information are linked for a variety of uses, such as capturing spatial land uses and property data.

Greenfield

Refers to undeveloped land zoned for residential development on the urban fringe of the city. These areas are generally used for rural purposes until residential subdivision takes place. Council's URAs are located in greenfield sites predominantly due to the need to maximise lot layout and provide suitable access to allotments within URAs.

Gross Floor Area (GFA): The total floor area of a building measured in square metres.

Heritage Conservation Area

Areas of important architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Shown in Council's LEP mapping, heritage conservation areas include (but are not limited to) items such as buildings, works, archaeological sites and trees.

Hunter Water Corporation (HWC)

The reticulated water and sewer authority for the LGA of Maitland, except where such provision does not exist. HWC also maintain some stormwater drainage infrastructure, however it should be noted that this is minimal.

Infill Development

Development that takes place on vacant or underutilised parcels of land within an area that is already defined by urban development and maintains access to urban services.

Infrastructure

The essential built facilities necessary to service the needs of a population in a given locality. Infrastructure may include roads, water and sewer systems, stormwater drainage systems or cycleways, footpaths, schools, health facilities etc.

Integrated Development

Development that requires a specific permit or approval from a State Government agency, requiring referral to that agency during the assessment process.

Land & Environment Court

The NSW Court for hearing disputes involving development, environmental, building, planning and valuation matters.

Legibility

A legible area is one which offers a clear interpretation of the landscape and incorporates identifiable landmarks for negotiating streets, footpaths, buildings and open spaces within the locality. There is a clear theme resonating from the design of the built environment, which is easy to understand and interpret.

Linen Plan

The subdivision plan prepared by a surveyor, approved by Council and then the NSW Lands and Property Information Office (LPI) to create legal title for a parcel of land. A Linen Plan shows the dimensions and area of each allotment, the lot numbers, as well as any roads and easements. The Linen Plan may be accompanied by a legal ancillary document known as an 88(b) Instrument, describing and explaining restrictions on the land.

Local Environmental Plan (LEP)

The principal statutory plan that directs development at the local government level. Incorporates a written document and coloured zoning maps specifying development that is permissible with and without consent, development which is prohibited, and contains some special provisions relating to particular types of development.

Local Environmental Study (LES)

A comprehensive environmental study (or series of studies) undertaken to gather the necessary information to create, or amend, an LEP.

Local Government Act, 1993 (LG Act)

Legislation implemented by the NSW State Government which governs the operations and functions of all local Councils within NSW.

Masterplan

A comprehensive plan that describes and illustrates the entire development plan for a precinct, including existing and future land uses, urban design, landscaping, built form, infrastructure and service provision.

Minister

The Minister administering the EP & A Act, 1979. Known as the Minister for Planning in the NSW parliament.

NatHERS Assessment (Nationwide House Energy Rating Scheme)

NatHERS enables computer software tools to determine the potential energy efficiency of Australian homes. NatHERS stipulates the minimum set of information that must be used by all software tools.

Node

A locality where there is a concentration of high-intensity, mixed-use residential and commercial development usually interspersed with lower intensity land uses or open space.

Occupation Certificate (OC)

An OC is issued to permit the occupation or use of a new building, or the change of use involved with an existing building. Only the PCA can issue an OC.

On-site Wastewater Treatment System

Method of disposing wastewater generated upon properties (particularly rural parcels) that do not have access to Hunter Water Corporation's piped sewage system.

Passive Surveillance

The conscious planning and design of streets, buildings and open space with the intention of decreasing the incidence of crime, and the perceived fear of crime.

Pecuniary Interest

This means a financial interest or association with the proposed development, the land, the applicant or land owner.

Planning Certificate (149 Certificate)

A planning certificate (also known as a Section 149 certificate because it is issued under section 149 of the EP&A Act 1979) contains planning information about a parcel of land, including its zoning and any SEPPS, DCPs or restrictions that apply.

Planning Circular

A government publication issued by the NSW Department of Planning, providing guidance to Councils and other public authorities in making decisions regarding development assessment.

Planning Strategy

An apparatus for introducing planning goals and objectives. These typically involve action statements explaining how goals will be achieved. Planning strategies usually lead to formal policies and programs.

Pre-lodgement

The time period prior to lodging a DA in which the proponent should discuss the proposal with Council's relevant staff.

Principle Certifying Authority (PCA)

Once a DA and CC are approved, a Principal Certifying Authority (PCA) needs to be appointed prior to work proceeding. Both Council and private accredited certifiers are PCAs and either one can oversee the construction process once appointed. Council must be informed (in writing) at least two days before construction commences.

Private Accredited Certifier

A private accredited certifier is a private sector professional who holds accreditation to issue the relevant certificates and perform specific functions outlined under the Environmental Planning and Assessment Act, 1979.

Public Improvements

Various facilities and services provided by Council such as street lighting, public seating, road maintenance, garbage collection, and stormwater drainage systems.

Redevelopment Sites

These are sites in existing established non-residential areas which are identified for conversion to residential use. Examples include former school sites and remediated industrial land.

Regional Environmental Plan (REP)

A statutory plan prepared by the NSW Department of Planning which considers matters of regional significance. The Hunter Regional Environmental Plan, gazetted in 1989, applies to land within the Maitland LGA. The HREP, 1989 contains provisions relating to rural lands, industry, heritage, environmental areas and commercial centres.

Regional Strategy

A planning strategy prepared by the NSW Department of Planning which considers regional planning issues such as projected population growth, locations of URAs and centres, and transport routes. The Lower Hunter Regional Strategy applies in the Maitland LGA.

Renewable Energy

Renewable energy involves energy flows that occur naturally and environmentally sustainably. Examples include wind, solar, tidal and geothermal energy.

Rezoning

Changing the zoning of land through an amendment to the LEP. The process must follow that prescribed in the Act and Regulation, requires the determination of Councillors and the agreement of Government Departments and the Minister. It is not unusual for the rezoning process to take more than 12 months given the consultation process involved.

Ribbon Development

Development, usually residential, extending along one or both sides of a road but not extended in depth. Ribbon development is generally not encouraged by Council due to the inefficient use of infrastructure and services, and traffic engineering issues which eventuate by permitting several access points along main roads to a number of properties.

Right of Way / Right of Carriageway (RoW)

A right of way is a restriction on the use of land, or burden for one land owner that benefits another land owner. The dimensions and location of a ROW are shown on a Deposited Plan and an 88(b) instrument. The purpose of a ROW is to legally permit the owner of one allotment to gain vehicle or pedestrian access over another allotment.

Screening

A method of reducing visual or acoustic impacts through the use of vegetation, earthen bunds, fences or walls, or a combination of these.

79C Heads of Consideration (Section 79C of the EP&A Act, 1979)

Lists the matters to be considered in the assessment of any DA. These matters should be addressed by the proponent when preparing the Statement of Environmental Effects.

Section 94 (Section 94 of the EP&A Act, 1979)

Section 94 of the EP&A Act 1979 permits Council to levy a contribution on developments that will necessitate or augment the demand for public facilities and services within the area. A contribution under section 94 can be the dedication of land and/or the payment of money.

Section 96 Modification (Section 96 of the EP&A Act, 1979)

The modification of a development consent permitted under S96 of the EP & A Act, 1979. Any S96 modification must be similar to that already approved, or a new application is required to be lodged to Council for the amendment(s).

Section 117 Directions (Section 117 of the EP&A Act, 1979)

Under S117 of the EP & A Act the Minister for Planning may issue directions that Councils must consider when preparing or amending LEPs.

Settlement Pattern

A settlement pattern describes the way in which populated areas are distributed and interrelated. At present, the Maitland Urban Settlement Strategy guides the spatial distribution of land uses within the Maitland LGA.

Site Plan

This is a plan drawn to scale (e.g. 1:200) showing the physical features of a site. The plan may show the location of the driveway, house, trees, swimming pool, shed etc. The site plan should include dimensions from each existing and proposed structure to the site boundaries.

Statement of Environmental Effects (SoEE)

A statement of environmental effects is a written submission required when a DA is submitted to Council, as outlined under s79(c) of the EP&A Act 1979. A SoEE describes the existing development within the site and the site conditions; the scale of the proposed development and what it involves; addresses the zoning and any Council policies or provisions applying to the land. A basic template is available from Council to use for smaller DAs.

State Environmental Planning Policy (SEPP)

A statutory plan prepared and administered by the State Government. A SEPP deals with matters of State significance. A SEPP may inform, or prevail over, one or more of Council's planning controls.

Staged Development

Development which is completed over time such that it is coordinated concurrently with the delivery of essential infrastructure to service the population in that locality.

State Significant Development

Development for which the Minister is the consent authority. May involve significant infrastructure works or major employment generating activities.

Strata Plan (SP)

A SP is a plan of strata lots in a strata subdivision approved by the NSW Lands and Property Information Office e.g. Lot 4 SP9999

Strategic Land Use Planning

The preparation of land use plans and planning strategies for future development or the management of environmentally sensitive areas.

Subdivision Certificate (SC)

Council issues a Subdivision Certificate only once subdivision work is totally completed so that the plan of subdivision can be formally registered by the NSW Lands and Property Information Office.

Sustainable Development

The Brundtland Report *Our Common Future* states: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Sustainable Travel / Transport

Transport which is considered to have less impact on the environment and reduces traffic congestion. Typically involves walking, cycling, public transport or car sharing.

Topography

A description or map image of the contours of land defining changes in the height of land above sea level.

Urban Consolidation

Higher density urban form, achieved by infill development within the existing built environment and increased building heights. The central aims are to decrease the amount of land required for buildings, increase public transport patronage, and capitalise on infrastructure and services.

Urban Design

The skill of creating urban places. Centres on the design of individual buildings, the wider built form of a locality, urban spaces and landscapes, to create useable and amenable development.

Urban Fringe

The urban fringe is the transitional area between urban areas and rural areas.

Urban Release Area (URA)

An area of land (identified within an adopted planning strategy) which is to be utilised for residential, commercial or industrial purposes. Proposed urban release areas within the Maitland LGA are identified under the adopted Maitland Urban Settlement Strategy.

Urban Sprawl

The unforeseen spread of urban development into the urban fringe of a city, resulting in significant dependence on private vehicle transport and poor utilisation of infrastructure and services.

Vista

An uninterrupted panoramic view, such as a view from a hill towards the floodplain or a view between two objects towards a panoramic natural landscape.

Voluntary Planning Agreement (VPA)

A VPA is a voluntary agreement under Section 93F of the EP&A Act 1979 between a planning authority (or 2 or more planning authorities) and a person (the *developer*):

- (a) who has sought a change to an environmental planning instrument, or
- (b) who has prepared, or proposes to prepare, a DA, or
- (c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,

under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.

Wildlife Corridors

An area of habitat that exists in order to provide a continuous link to one or more areas of natural habitat. The corridor enables wildlife to traverse the landscape and access otherwise isolated habitat areas.

Zoning

Zoning is a system of categorising land using coloured zoning maps. The zone is the starting point for ascertaining whether your development is permissible or prohibited. Zones are shown on a map and are explained in a written document, collectively they form the LEP.