

## 3.01 Subdivision

---

### Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	15/11/2011	15/06/2012	New
2	17/07/2012	30/07/2012	Amended
3	27/09/2016	24/10/2016	Amended
4	27/06/2017	10/07/2017	Amended

### Savings provisions

Any development application lodged but not determined prior to this section coming into effect will be determined taking into consideration the provisions of this section.

### Land to which this section applies

This section applies to all land to which the Newcastle Local Environmental Plan 2012 applies and to land outside of the Port of Newcastle lease area to which State Environmental Planning Policy (Three Ports) 2013 applies.

### Development (type/s) to which this section applies

This section applies to all development consisting of subdivision.

### Applicable environmental planning instruments and legislation

The provisions of the Newcastle Local Environmental Plan 2012 also apply to development applications to which this section applies.

In the event of any inconsistency between this section and the above environmental planning instrument, the environmental planning instrument will prevail to the extent of the inconsistency.

Note 1: Additional environmental planning instruments may also apply in addition to those listed above.

Note 2: The *Environmental Planning and Assessment Act 1979* enables an environmental planning instrument to exclude or modify the application of this DCP in whole or part.

### Related sections

The following sections of this DCP **will** also apply to development to which this section applies:

- 4.04 Safety and Security
- 7.02 Landscaping, Open Space and Visual Amenity
- 7.03 Traffic, Parking and Access
- 7.04 Movement Networks
- 7.06 Stormwater
- 7.08 Waste Management.

The following sections of this DCP **may** also apply to development to which this section applies:

- 4.01 Flood Management – all land which is identified as flood prone land under the Newcastle Flood Policy or within a PMF or area likely to flood
- 4.02 Bush Fire Protection – within mapped bush fire area/zone
- 4.03 Mine Subsidence – within mine subsidence area
- 4.05 Social Impact – where more than 20 lots are created by subdivision
- 5.01 Soil Management – works resulting in any disturbance of soil and/or cut and fill
- 5.02 Land Contamination – land on register/where risk from previous use
- 5.03 Vegetation Management – trees within 5m of a development footprint or those trees likely to be affected by a development
- 5.04 Aboriginal Heritage – known/likely Aboriginal heritage item/site and/or potential soil disturbance
- 5.05 Heritage Items – known heritage item or in proximity to a heritage item
- 5.06 Archaeological Management – known/likely archaeological site and/or potential soil disturbance
- 6.01 Newcastle City Centre - if proposed development is located in this precinct
- 6.02 Heritage Conservation Areas - known conservation area
- 6.03 Wickham - if proposed development is located in this precinct
- 6.04 Islington Renewal Corridor - if proposed development is located in this precinct
- 6.05 Mayfield Renewal Corridor - if proposed development is located in this precinct
- 6.06 Hamilton Renewal Corridor - if proposed development is located in this precinct
- 6.07 Broadmeadow Renewal Corridor - if proposed development is located in this precinct
- 6.08 Adamstown Renewal Corridor - if proposed development is located in this precinct
- 6.09 Darby Street Cooks Hill - if proposed development is located in this precinct
- 6.10 Beaumont Street Hamilton - if proposed development is located in this precinct
- 6.11 Royal Newcastle Hospital Site - if proposed development is located in this precinct
- 6.12 Minmi - if proposed development is located in this precinct.

### **Associated technical manual/s**

- *Newcastle Subdivision Technical Manual*, The City of Newcastle
- *Guide to Traffic Engineering Practice*, 1999, Austroads Standards Australia
- *Model Agreement for Local Councils and Utility/Service Providers*, Streets Opening Conference, [www.streetsopening.com.au](http://www.streetsopening.com.au)

### **Additional information**

- *Disability Standards for Accessible Public Transport*, 2002, Commonwealth of Australia
- *Planning Guidelines for Walking and Cycling*, 2004, Department of Infrastructure, Planning and Natural Resources
- *Transport Stops, Shelters and Seating Guidelines*, 2008, Newcastle City Council

### **Definitions**

A word or expression used in this development control plan has the same meaning as it has in Newcastle Local Environmental Plan 2012, unless it is otherwise defined in this development control plan.

Other words and expressions referred to within this section are defined within Section 9.00 – Glossary of this plan, and include:

- **Community title subdivision** - form of title created under the *Community Land Development Act 1989* and the *Community Land Management Act 1989*. Community title provides individual ownership of lots (with buildings and structures erected on the lots as in conventional subdivision) and a share in the association property. Association property is a

lot in the scheme on which community facilities may be erected. Association property can include land for roads and driveways, swimming pools and other common facilities, common open space areas and common infrastructure facilities, such as water treatment plants and the like.

Note: Community title subdivision can be particularly useful where individually owned lots are required, but where common property and/or facilities are desired or required by Council. An example of the latter may be where Council requires a watercourse in a rural residential scheme to be maintained and enhanced as part of the development proposal.

- **Conventional or Torrens title subdivision** - the traditional or 'single lot' form of subdivision, common in many residential estates. The Torrens title system is based on a plan of survey, or a plan compiled from survey, which defines the boundaries of a parcel of land at the date upon which it was registered.

Note: Subdivision proposing less than 20 lots may be classed as medium scale and development of more than 20 lots as large scale development.

- **Developer Contributions** - Section 7.11 and 7.12 of the Environmental Planning and Assessment Act 1979 is the principal legislation enabling Council to levy contributions for amenities and services. Contributions are imposed by way of a condition of consent and can be satisfied by either:
  - (a) dedication of land
  - (b) monetary contribution
  - (c) material public benefit
  - (d) combination of the above.
- **Strata subdivision** - defined as 'subdivision' in the *Environmental Planning and Assessment Act 1979*. Strata subdivision can subdivide buildings and land into separate lots capable of individual ownership, with additional areas of land designated as common property. Those owning lots within the scheme have a proportional entitlement to use the common property and also a proportional responsibility for its maintenance. Examples are buildings such as townhouses, flats, industrial units and shops, with outside areas such as gardens, driveways and car parking spaces usually being part of the common property lot, owned and managed by the 'Owners Corporation'.
- **Subdivision certificate** - a certificate issued by the Council that authorises the registration of a plan of subdivision in the Land Titles Office.

Note: At present, accredited certifiers may not issue a subdivision certificate.

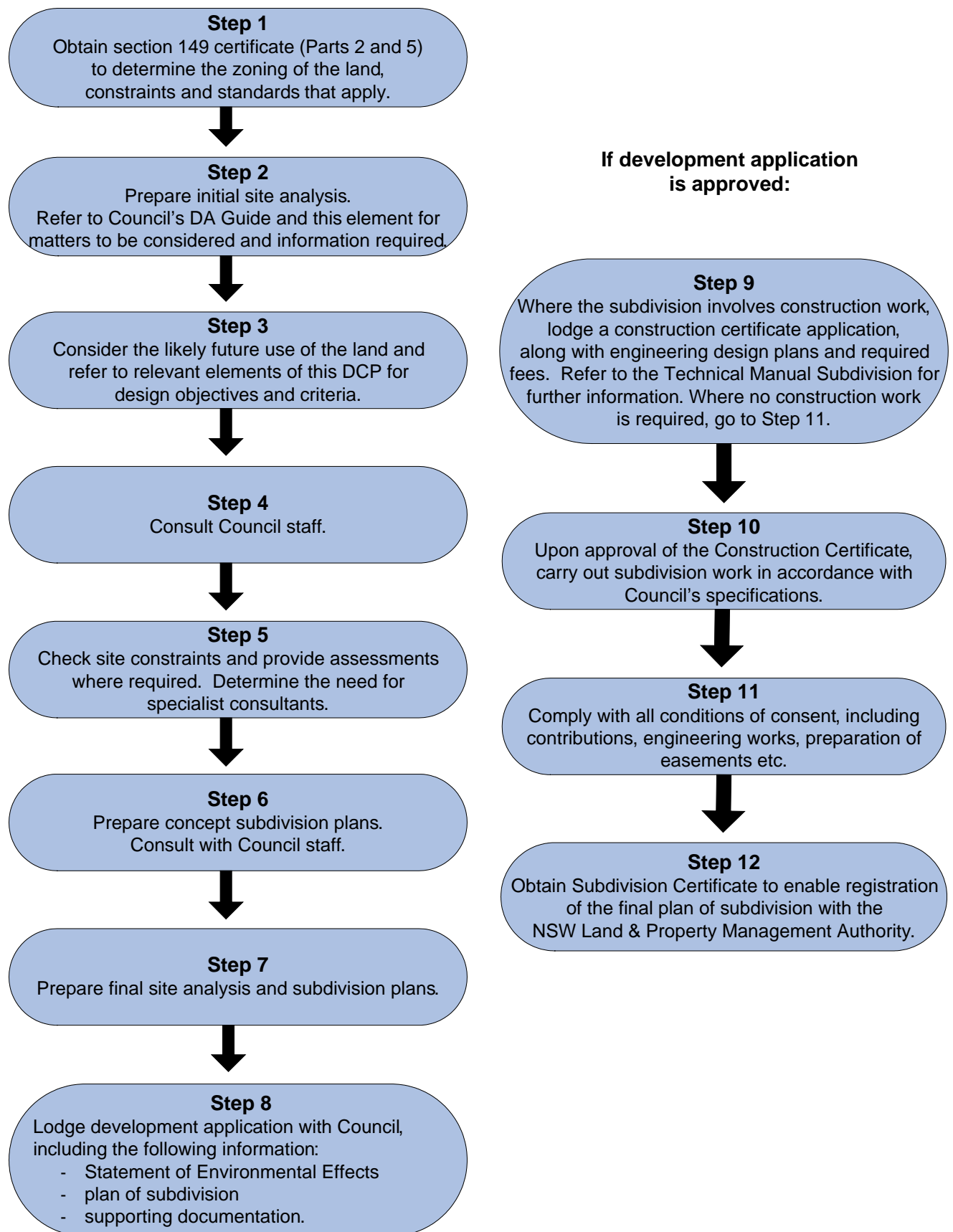
- **Subdivision process** - the subdivision design and application process is shown in Figure 1.
- **Planning Agreements** - an alternative to the payment of a Section 7.11 or Section 7.12 levy whereby the applicant may offer to enter into a Planning Agreement with Council to fund or provide works in kind for providing infrastructure or facilities not otherwise required as part of the development. Acceptance of an offer is at the sole discretion of Council and where Council decides not to accept the offer, payment of the Section 7.11 or Section 7.12 levy will be required.

Note: Proponents are encouraged to contact Council to determine requirements for the particular proposal.

### **Aims of this section**

1. To identify Council's expectations and requirements relating to standards of subdivision design and construction, and information required to be submitted.
2. To minimise adverse impacts on the natural and built environments.
3. To ensure that all lots are physically capable of development.
4. To ensure lots have appropriate levels of amenity, services and access.
5. To achieve efficient use of land.

**Figure 1 – Subdivision Process**



### 3.01.01 Site analysis

#### **Objectives**

1. Undertake thorough site analysis prior to considering the subdivision design.
2. Design subdivisions that are responsive to existing site conditions.
3. Ensure subdivision proposals address all relevant matters.

#### **Controls**

1. The process for design follows the basic steps of:
  - (a) site analysis to identify all constraints and opportunities, both on-site and external to the site
  - (b) mapping, measuring or quantifying of constraints and opportunities
  - (c) development of a subdivision design that properly considers and takes account of those constraints, opportunities and various elements of this development control plan.

### 3.01.02 Subdivision design

#### **A. Solar access**

#### **Objectives**

1. Maximise the number of allotments which have good solar access.

#### **Controls**

The following controls apply to subdivision resulting in 20 or more lots

1. Eighty per cent of all lots should achieve a five star rating, with the rest achieving a minimum of four or three stars, as defined by an analysis determined from *Solar Access for Lots – Guidelines for Solar Efficient Residential Subdivision in New South Wales* (refer to Subdivision Technical Manual).
2. Allotment orientation results in living areas and private open space of any dwelling being oriented to the north and dwellings positioned so that possible overshadowing of existing or future adjoining buildings are avoided or minimised. Where site conditions, such as slope, could constrain future development, lot sizes are increased.

Note: Council may require plans showing potential building footprint, private open space for constrained sites (eg. sites with steep slopes) to ensure that the requirements of Section 3.02 Single Dwellings and Ancillary Development can be achieved.

## **B. Services**

### **Objectives**

1. Ensure all developments have adequate services, including water for domestic and fire fighting purposes, to cater for future developments and their occupants.
2. Enable installation, maintenance and augmentation of services in a cost effective manner and with minimal impact on the environment and community.

### **Controls**

#### Controls applying to all development to which this section applies

1. Essential services are provided to each lot, including the delivery of:
  - (a) satisfactory supply of water
  - (b) electricity
  - (c) communications
  - (d) the sustainable management of sewage.

The provision of reticulated natural gas and broadband internet are highly desirable.
2. All services are provided underground. Where overhead electricity wiring exists in established areas, Council may vary this standard to provide for reasonable connection to the existing system.
3. The location of utility services does not adversely affect the viability of significant vegetation and waterways.
4. Adequate buffers are maintained between utilities and houses to protect residential amenity and health.
5. Energy Australia Style 2 standard light poles (galvanised) are used. If a developer proposes a more decorative style, Council may require a non-refundable payment to be made, at the rate of the unit cost for one pole and luminaire for each 10 units or part thereof.
6. Copies of detailed construction plans, approved by the respective utility provider, submitted before a construction certificate is issued for subdivision work.
7. For installation of services, proponents refer to the *Model Agreement for Local Councils and Utility/Service Providers* and the *Guide to Codes & Practices for Streets Opening*.

## **C. Battleaxe allotments**

### **Objectives**

1. Ensure clear ownership and easements are established for battleaxe handles and stormwater drainage.
2. Ensure appropriate management is established for battleaxe handles.

## **Controls**

The following controls apply only to battleaxe allotments

1. Vehicle access, where shared between proposed allotments, incorporates reciprocal right of carriageway to ensure a clear legal standing. The right of carriageway includes any turning areas and visitor parking bays where appropriate.
2. Battleaxe handles do not support more than two lots unless proposals are strata or community title subdivision.

## **D. Community title subdivision**

### **Objectives**

1. Ensure community title subdivisions are set up to meet the needs of end users/owners.

### **Controls**

The following controls apply only to community title subdivision

1. A draft of the Management Statement is provided with the development application for subdivision.
2. Communal open areas are designed to meet user needs and determined by:
  - (a) overall housing density
  - (b) non-discriminatory access and use
  - (c) the quality and extent of alternative, proximate open space.
3. Privacy is maintained between dwellings.
4. Appropriate vehicular access is provided having regard to the road hierarchy of the proposed movement network.
5. Essential services are provided to all proposed allotments.

## **3.01.03 Lot layout, sizes and dimensions**

### **Objectives**

1. Provide subdivision lot sizes that meet community and economic needs, while ensuring that environmental and social values are safeguarded.
2. Facilitate greater diversity in housing choice.
3. Ensure lots are of sufficient size to meet user requirements and to facilitate energy efficiency of the future built form.
4. Encourage innovative design.



5. Provide a range and mix of lot sizes to suit a variety of industrial uses with areas and dimensions to meet user requirements, including provision of storage space, vehicle access, parking, manoeuvring, and landscaping.
6. Provide subdivisions that are responsive to site constraints and opportunities.
7. Ensure appropriate building siting and access to development.
8. Provide adequate open space and recreation areas, vehicle access and parking.

## **Controls**

### The following controls apply only to subdivision in residential zones

1. Refer to Newcastle Local Environmental Plan 2012 for the minimum subdivision lot size in residential zones.
2. A range and mix of lot sizes produced, that:
  - (a) are generally rectangular in shape
  - (b) provide for diversity in housing choice
  - (c) use land efficiently
  - (d) protect natural and cultural heritage features
  - (e) provide for vehicular access that connects to a public road
  - (f) result in a street and lot layout that facilitates energy efficient building siting and design
  - (g) allow for erection of dwellings that present a building front to the street.
3. Lot sizes and dimensions provide for:
  - (a) rectangular allotments
  - (b) a minimum frontage of 15m
  - (c) space for parking and manoeuvring of vehicles
  - (d) space for private recreation and landscaping.
4. Where an application for subdivision proposes to subdivide land which contains an existing dwelling or that land has consent for the erection of a dwelling, or consent is being sought for dwelling(s), it must be demonstrated that each dwelling on each proposed allotment will comply with Section 3.02 Single Dwellings (eg. via provision of parking, adequate solar access, good layout and design, adequate landscaping area and courtyards).
5. Where an application for subdivision proposes to subdivide land which contains:
  - i) an existing dual occupancy, semi-detached dwellings, attached dwellings, multi dwelling housing or residential flat buildings, OR
  - ii) the land has consent for, or consent is being sought for, the erection of a dual occupancy, semi-detached dwellings, attached dwellings, multi dwelling housing or a residential flat buildings;

it must be demonstrated that each dwelling on each proposed allotment will comply with Section 3.03 Residential Development.

The following controls apply only to subdivision in residential zones, arising in battleaxe lots

6. The minimum width of the access corridor for a battleaxe lot is 3.5m.
7. Subdivision proposals involving more than two lots served by an access corridor or battleaxe handle are strata or community title subdivision.
8. The maximum length of the access corridor for a battleaxe lot is 50m. Passing bays provided in accordance with Australian Standards.
9. The pavement within the access handle and associated drainage (in accordance with Section 7.04) is constructed from the road to the usable part of the lot prior to release of the subdivision certificate.
10. Where vehicular access is obtained from a laneway, a pedestrian pathway, within a minimum 1m wide access handle, is provided to the street frontage. The pathway allows pedestrian access, garbage services and property identification.

The following controls apply only to subdivision in residential zones, arising in fan-shaped lots

11. Fan-shaped lots have a minimum frontage of 9m and a minimum width measuring 6m from street alignment of 15m.

The following controls apply to subdivision of dual occupancy, attached dwellings and multi dwelling housing as defined by the Newcastle Local Environmental Plan 2012

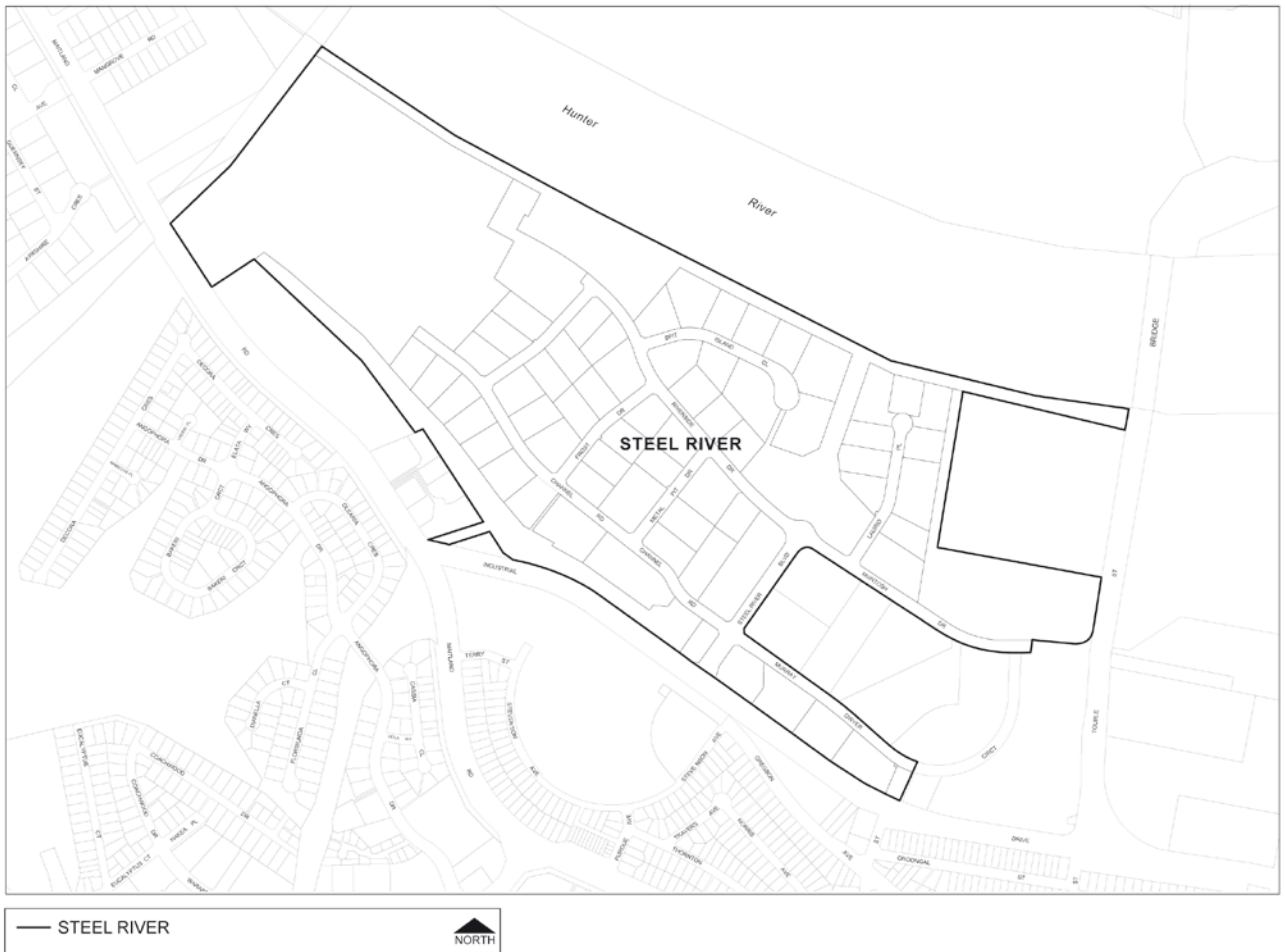
12. Roof and gutter systems are graded such that each lot drains independently of each other. In the event that an approved development has other stormwater management systems, such as a detention tank, appropriate easements are established to preserve the legal rights of owners and to ensure that maintenance obligations are clearly defined.

Note: The endorsement of a subdivision certificate for subdivision in conjunction with dwellings is at the discretion of Council but will generally not be released prior to lock up stage of the associated development.

The following controls apply only to subdivision in industrial zones

13. Refer to Newcastle Local Environmental Plan 2012 for minimum subdivision lot size in industrial zones.
14. Lots have a minimum frontage of 25m.
15. Within 'Steel River' (as indicated on **Map 1** below) lots have a minimum frontage of 60m with no direct access off Industrial Drive, Tourle Street or Pacific Highway.
16. Lots are rectangular in shape.
17. The design of the subdivision allows for the largest vehicles anticipated to require access to the subdivision, which will typically be semi-trailers and B-Double trucks.
18. Lot size to allow trucks to manoeuvre on-site without reversing onto or off the lot.

**Map 1: Steel River**



### **3.01.04 Subdivision construction and bonding of work**

#### **A. Subdivision construction**

##### ***Objectives***

1. Ensure subdivision works meet all necessary standards.

##### ***Controls***

##### **Controls applying to all development to which this section applies**

1. All construction works associated with the subdivision carried out in accordance with the current version of NATSPEC (as amended by Council and detailed in the Subdivision Technical Manual).

## **B. Bonding of work**

### ***Objectives***

1. Ensure lots are serviced prior to titles being registered with the Land Titles Office.

### ***Controls***

#### Controls applying to all development to which this section applies

1. Bonding of minor works to allow the issuing of the Subdivision Certificate are only accepted by Council where demonstrated that such works are not required to service proposed lots that may be transferred into private ownership.