



# Hastings Local Environmental Plan 2001 (Amendment No 21)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G02/00040/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

## 2003 No 677

Clause 1 Hastings Local Environmental Plan 2001 (Amendment No 21)

---

# Hastings Local Environmental Plan 2001 (Amendment No 21)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Hastings Local Environmental Plan 2001 (Amendment No 21)*.

### 2 Aims of plan

The aims of this plan are:

- (a) to update the references to the adoption date of *Hastings Development Control Plan No 36—Exempt and Complying Development*, and
- (b) to clarify what can be complying development in relation to bushfire prone land, and
- (c) to clearly identify associated legislative controls.

### 3 Land to which plan applies

This plan applies to all land within the Hastings local government area.

### 4 Amendment of Hastings Local Environmental Plan 2001

*Hastings Local Environmental Plan 2001* is amended as set out in Schedule 1.

### 5 Amendment of Hastings Local Environmental Plan 1987

*Hastings Local Environmental Plan 1987* is amended as set out in Schedule 2.

---

## Schedule 1 Amendment of Hastings Local Environmental Plan 2001

(Clause 4)

### [1] Clause 8 Complying development

Omit clause 8 (2). Insert instead:

- (2) Development is complying development only if:
  - (a) it meets the applicable requirements specified in Hastings DCP No 36 applying to the development, and
  - (b) in the case of development involving a building, the building complies with the deemed-to-satisfy provisions of the *Building Code of Australia*, except where provided for in Schedule 2 of Hastings DCP No 36, and
  - (c) it does not include the exhibition or sale of material (whether literature, video, film, goods or articles) used or intended for use in connection with sexual behaviour and classified or refused classification under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, or the exhibition of objects primarily concerned with sexual behaviour, and
  - (d) it is not carried out on land that:
    - (i) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
    - (ii) is land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, or
    - (iii) is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
    - (iv) is identified in this plan or a development control plan adopted by the Council as being contaminated, within a buffer area, or subject to subsidence, slip or erosion, or
    - (v) is in a watercourse or flood path for a 1% AEP event, unless explicitly permitted within Hastings DCP No 36, or
    - (vi) has previously been used as a service station or a saw mill, or for intensive agriculture, mining or extractive industry, or

## 2003 No 677

Hastings Local Environmental Plan 2001 (Amendment No 21)

Schedule 1 Amendment of Hastings Local Environmental Plan 2001

---

(vii) is an aquatic reserve declared under the *Fisheries Management Act 1994*, or

- (e) no environmental planning instrument states that the adequacy of an acid sulfate soils management plan for the proposed development must be considered before consent can be granted for it, and
- (f) where it will result in the doing of anything referred to in section 78A (3) of the Act for which an approval is required or in the removal of a tree or native vegetation for which an approval or consent is required, that approval or consent has been obtained, and

**Note.** Section 78A (3) of the Act refers to development applications involving an associated approval under section 68 of the *Local Government Act 1993*.

- (g) it is not integrated development, and

**Note.** Integrated development is development which is subject to an associated approval under other legislation, as listed in section 91 of the Act. It is subject to special referral processes. An example is a development requiring a bush fire safety authority under the *Rural Fires Act 1997*.

- (h) it is not prevented from being complying development by virtue of section 76A (6) of the Act.

**Note.** The authority for this LEP to define complying development is contained in section 76A (5) of the *Environmental Planning and Assessment Act 1979*. This authority is qualified by subsection (6), which states:

- (6) A provision under subsection (5) cannot be made:
- (a) if the development is State significant development, or
  - (b) if the development is designated development, or
  - (c) if the development is development for which development consent cannot be granted except with the concurrence of a person other than:
    - (i) the consent authority, or
    - (ii) the Director-General of National Parks and Wildlife as referred to in section 79B (3), or
  - (d) so as to apply to land that is critical habitat, or
  - (e) so as to apply to land that is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), or
  - (f) so as to apply to land that comprises, or on which there is, an item of the environmental heritage:
    - (i) that is subject to an interim heritage order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or

- 
- (ii) that is identified as such an item in an environmental planning instrument, or
  - (g) so as to apply to land that is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the complying development.

A provision made under subsection (5) has no effect in relation to development or land at any time during which the development or land is development or land to which paragraph (a)–(g) applies.

**[2] Dictionary**

Omit “12 November 2001” from the definition of *Hastings DCP No 36*.

Insert instead “26 May 2003”.

## 2003 No 677

Hastings Local Environmental Plan 2001 (Amendment No 21)

Schedule 2 Amendment of Hastings Local Environmental Plan 1987

---

### Schedule 2 Amendment of Hastings Local Environmental Plan 1987

(Clause 5)

#### [1] Clause 8 Interpretation

Omit “12 November 2001” from the definition of *Hastings DCP No 36*.

Insert instead “26 May 2003”.

#### [2] Clause 8B Complying development

Omit clause 8B (2). Insert instead:

- (2) Development is complying development only if:
  - (a) it meets the applicable requirements specified in Hastings DCP No 36 applying to the development, and
  - (b) in the case of development involving a building, the building complies with the deemed-to-satisfy provisions of the *Building Code of Australia*, except where provided for in Schedule 2 of Hastings DCP No 36, and
  - (c) it does not include the exhibition or sale of material (whether literature, video, film, goods or articles) used or intended for use in connection with sexual behaviour and classified or refused classification under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth, or the exhibition of objects primarily concerned with sexual behaviour, and
  - (d) it is not carried out on land that:
    - (i) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
    - (ii) is land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, or
    - (iii) is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
    - (iv) is identified in this plan or a development control plan adopted by the Council as being contaminated, within a buffer area, or subject to subsidence, slip or erosion, or

- 
- (v) is in a watercourse or flood path for a 1% AEP event, unless explicitly permitted within Hastings DCP No 36, or
  - (vi) has previously been used as a service station or a saw mill, or for intensive agriculture, mining or extractive industry, or
  - (vii) is an aquatic reserve declared under the *Fisheries Management Act 1994*, or
- (e) no environmental planning instrument states that the adequacy of an acid sulfate soils management plan for the proposed development must be considered before consent can be granted for it, and
- (f) where it will result in the doing of anything referred to in section 78A (3) of the Act for which an approval is required or in the removal of a tree or native vegetation for which an approval or consent is required, that approval or consent has been obtained, and
- Note.** Section 78A (3) of the Act refers to development applications involving an associated approval under section 68 of the *Local Government Act 1993*.
- (g) it is not integrated development, and
- Note.** Integrated development is development which is subject to an associated approval under other legislation, as listed in section 91 of the Act. It is subject to special referral processes. An example is a development requiring a bush fire safety authority under the *Rural Fires Act 1997*.
- (h) it is not prevented from being complying development by virtue of section 76A (6) of the Act.
- Note.** The authority for this LEP to define complying development is contained in section 76A (5) of the *Environmental Planning and Assessment Act 1979*. This authority is qualified by subsection (6), which states:
- (6) A provision under subsection (5) cannot be made:
    - (a) if the development is State significant development, or
    - (b) if the development is designated development, or
    - (c) if the development is development for which development consent cannot be granted except with the concurrence of a person other than:
      - (i) the consent authority, or
      - (ii) the Director-General of National Parks and Wildlife as referred to in section 79B (3), or
    - (d) so as to apply to land that is critical habitat, or
-

## 2003 No 677

Hastings Local Environmental Plan 2001 (Amendment No 21)

Schedule 2      Amendment of Hastings Local Environmental Plan 1987

---

- (e) so as to apply to land that is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), or
- (f) so as to apply to land that comprises, or on which there is, an item of the environmental heritage:
  - (i) that is subject to an interim heritage order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or
  - (ii) that is identified as such an item in an environmental planning instrument, or
- (g) so as to apply to land that is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the complying development.

A provision made under subsection (5) has no effect in relation to development or land at any time during which the development or land is development or land to which paragraph (a)–(g) applies.

BY AUTHORITY

---