



Lismore Local Environmental Plan 2000 (Amendment No 14)

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*. (G03/00028/S69)

DIANE BEAMER, M.P.,

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

2004 No 250

Clause 1 Lismore Local Environmental Plan 2000 (Amendment No 14)

Lismore Local Environmental Plan 2000 (Amendment No 14)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Lismore Local Environmental Plan 2000 (Amendment No 14)*.

2 Aims of plan

This plan aims:

- (a) to replace existing heritage clauses and definitions in *Lismore Local Environmental Plan 2000 (the 2000 plan)* with standard heritage provisions and definitions issued by the Heritage Office, and
- (b) to add to, and correct descriptions of, properties described in the schedule of heritage items in the 2000 plan, and
- (c) to rezone certain land fronting Coraki Road, South Gundurimba, to Special Uses (Cemetery), and
- (d) to rezone certain land fronting Keen and Magellan Streets, Lismore, as intended by the making of *Lismore Local Environmental Plan 2000 (Amendment No 9)*, and
- (e) to introduce miscellaneous amendments to the 2000 plan:
 - (i) to add definitions of **recycling drop-off centre**, **storage shed** and **temporary event** and to amend the zoning table to allow or prohibit such uses in certain zones, and
 - (ii) to prohibit service stations on land within Zone No 1 (b), and
 - (iii) to amend provisions relating to subdivision and development in rural zones, caretakers' residences and subdivision of land within Zones Nos 2 (a) and 2 (v), and

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- (iv) to remove the additional use provisions applying to certain land, being land at the south-eastern corner of the junction of Holland Street and the Bruxner Highway, and 77 and 73 Uralba Street, Lismore, and
 - (v) to effect law revision and to make minor and consequential amendments.

3 Land to which plan applies

This plan applies to all land within the City of Lismore under *Lismore Local Environmental Plan 2000*.

4 Amendment of Lismore Local Environmental Plan 2000

Lismore Local Environmental Plan 2000 is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clauses 12–17C

Omit clauses 12–17. Insert instead:

12 Heritage conservation objectives

The objectives of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of Lismore City, and
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
- (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items, and
- (e) to ensure that the heritage conservation areas throughout Lismore City retain their heritage significance.

13 Protection of heritage items and heritage conservation areas

(1) When is consent required?

The following development may be carried out only with development consent:

- (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
- (c) altering a heritage item by making structural changes to its interior,

- (d) 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, damaged or destroyed,
- (e) moving the whole or a part of a heritage item,
- (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

(2) **What exceptions are there?**

Development consent is not required by this clause if:

- (a) in the opinion of the consent authority:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
- (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.

(3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:

- (a) the creation of a new grave or monument, or
- (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

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(4) **What must be considered in assessing a development application?**

Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) **What extra documentation is needed?**

The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent authority may also decline to grant such a consent until it has considered a conservation management plan, if it considers the proposed development should be assessed with regard to such a plan.

(6) The minimum number of issues that must be addressed by the heritage impact statement are:

- (a) for development that would affect a heritage item:
 - (i) the heritage significance of the item as part of the environmental heritage of the City of Lismore, and
 - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
 - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
 - (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
 - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
- (b) for development that would be carried out in a heritage conservation area:
 - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and

- (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
- (iii) the compatibility of the proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
- (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

14 Advertised development

The following development is identified as advertised development:

- (a) the demolition of a heritage item or a building, work, tree or place in a heritage conservation area,
- (b) the carrying out of any development allowed by clause 17B.

15 Notice of demolition to the Heritage Council

Before granting consent for the demolition of a heritage item identified in Schedule 1 as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

16 Development affecting places or sites of known or potential Aboriginal heritage significance

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

17 Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
 - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and

- (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
 - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
 - (b) is integrated development.

17A Development in the vicinity of a heritage item

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item, or
 - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

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17B Conservation incentives

The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and
- (c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

17C Development in heritage conservation areas

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
 - (a) the pitch and form of the roof (if any), and
 - (b) the style, size, proportion and position of the openings for windows or doors (if any), and
 - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.

[2] Clause 24 Development for the purposes of advertisements

Omit “clause 6” from clause 24 (1). Insert instead “clause 5”.

[3] Clause 27 Temporary use of public land

Omit the clause.

[4] Clause 28A Development on land identified on Acid Sulfate Soil Planning Maps

Omit clause 28A (7) (c). Insert instead:

- (c) Clause 11 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.

[5] Clause 30 Zone No 1 (a) (General Rural Zone)

Insert in item 30.5 in alphabetical order:

- storage sheds

[6] Clause 31 Zone No 1 (b) (Agricultural Zone)

Omit from item 31.4:

- service stations

[7] Clause 31, item 31.5

Insert in alphabetical order:

- storage sheds

[8] Clause 32 Zone No 1 (c) (Rural Residential Zone)

Insert in item 32.5 in alphabetical order:

- storage sheds
- temporary events

[9] Clause 33 Zone No 1 (d) (Investigation Zone)

Insert in item 33.3 in alphabetical order:

- temporary events

[10] Clause 35 Zone No 1 (r) (Riverlands Zone)

Insert in item 35.5 in alphabetical order:

- storage sheds

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[11] **Clause 36 Subdivision and development in rural zones**

Omit clause 36 (4). Insert instead:

- (4) Despite subclause (1), consent may be granted to the subdivision of land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (r) to create a lot of any size if the consent authority is satisfied that the lot will be used for a public utility undertaking within that zone and, in the opinion of the consent authority:
- (a) the lot has a satisfactory shape and frontage for that use, and
 - (b) the lot will not cause a traffic hazard or create or tend to create further ribbon development along a road.

[12] **Clause 38 Caretaker's residence**

Omit "ancillary a use". Insert instead "ancillary to a use".

[13] **Clause 38 (d)**

Insert at the end of paragraph (c):

- , and
- (d) the land on which the caretaker's residence is to be erected satisfies the requirements of clause 37 (3) and a dwelling is permissible in accordance with the provisions of clause 37 (4).

[14] **Clause 48 Zone No 2 (a) (Residential Zone)**

Insert in item 48.5 in alphabetical order:

- storage sheds
- temporary events

[15] **Clause 49 Zone No 2 (f) (Residential (Flood Liable) Zone)**

Omit from item 49.5:

- industries (other than home industries)

[16] **Clause 49, item 49.5**

Insert in alphabetical order:

- industries (other than home and light industries)
- storage sheds
- temporary events

[17] Clause 50 Zone No 2 (v) (Village Zone)

Insert in item 50.4 in alphabetical order:

- storage sheds

[18] Clause 51 Subdivision of land in Zones Nos 2 (a) and 2 (v)

Omit clause 51 (4). Insert instead:

- (4) Despite subclause (3) (a), consent may be granted to the subdivision of land so as to create a lot with an area of less than 400 square metres if the plan of the proposed subdivision:
- (a) contains a restriction as to user under section 88E of the *Conveyancing Act 1919* that limits the erection of a residential building on the lot (not being a lot intended to dedicate land as a public road) to such part of the lot as may be determined by the consent authority, or
 - (b) relates to subdivision, under the *Strata Schemes (Freehold Development) Act 1973* or *Strata Schemes (Leasehold Development) Act 1986*, of an existing building.

[19] Clause 58 Zone No 3 (a) (Business Zone)

Insert in item 58.5 in alphabetical order:

- storage sheds

[20] Clause 59 Zone No 3 (b) (Neighbourhood Business Zone)

Omit the matter relating to item 59.3. Insert instead:

Development not included in item 59.2, 59.4 or 59.5.

[21] Clause 59, item 59.4

Omit the matter relating to the item. Insert instead:

Development for the purpose of:

- generating works
- markets
- refreshment rooms (over 150 square metres in floor area)
- residential buildings

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[22] Clause 59, item 59.5

Insert in alphabetical order:

- storage sheds

[23] Clause 60 Zone No 3 (f) (Services Business (Flood Liable) Zone)

Insert in item 60.5 in alphabetical order:

- storage sheds

[24] Clause 67 Zone No 6 (a) (Recreation Zone)

Insert in item 67.3 in alphabetical order:

- temporary events

[25] Clause 68 Zone No 6 (b) (Private Recreation Zone)

Insert in item 68.3 in alphabetical order:

- recycling drop-off centres
- temporary events

[26] Schedule 1 Heritage items

Omit from the Schedule matter relating to map numbers 23, 32, 73 and 95.

Insert instead:

23	Woodlawn College	189 and 203 Woodlawn Road, North Lismore	School and grounds	20101 30097	Built item Landscape item
32	Former Lismore High School	110 Magellan Street and 152 Keen Street, Lismore	School	20018 40012 20042	Built item
73	Railway Straight Carriage Shed	18, 20 and 30 Kyogle Street, South Lismore	Shed	10023 40006	Archaeological site

95	Trees	Road reserve outside 612, 622 and 632 Skyline Road, Gundurimba	Trees	30113	Landscape item
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[27] Schedule 1

Insert after map number 106:

107	Former Power Station	Lot 1, Section 1, DP 1691, 246 Union Street, South Lismore	Former Power Station	10030	Archaeological site
110	Uniting Church	1615–1615A Dunoon Road, Dunoon	Tree planting	30086	Landscape item
111	Grounds of Rainbow Power Company	7 Alternative Way, Nimbin	Grounds	30127	Landscape item
112	Nimbin Rocks	2345A Nimbin Road, Nimbin and 332 Lodge Road, Mountain Top	Views to rock formation	30012	Landscape item

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[28] Schedule 4 Additional development on certain land

Omit from the Schedule all the matter relating to the second and third entries, relating to land at the south-eastern corner of the junction of Holland Street and the Bruxner Highway, and to land known as 77 and 73 Uralba Street, Lismore.

[29] Schedule 5 Matters relating to environmental impact

Insert after item 7:

- 8 The likely effects of the proposed development on any Aboriginal cultural heritage or European heritage matters.

[30] Schedule 7 Definitions

Omit the definitions of *bed and breakfast establishment*, *demolition*, *dwelling-house*, *heritage conservation area*, *heritage item* and *relic*.

[31] Schedule 7

Insert in alphabetical order:

archaeological site means the site of one or more relics.

bed and breakfast establishment means a dwelling-house which:

- (a) is used by its permanent residents (including the owner) to provide short-term paid accommodation (which may include meals), and
- (b) contains no more than 5 bedrooms, at least one of which must be used by its permanent residents, and
- (c) may include ancillary buildings within the curtilage of the dwelling-house.

conservation management plan means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

demolish a heritage item, or a building, work, archaeological site, tree or place within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

dwelling-house means a building or buildings containing one but not more than one dwelling.

heritage conservation area means an area of land described in Schedule 2 and shown edged heavy black on the heritage conservation area map and includes buildings, works, archaeological sites, trees and places and situated on or within the land.

heritage conservation area map means the map marked “Lismore Local Environmental Plan 2000 (Amendment No 2)—Conservation Area”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of maps) marked as follows:

heritage impact statement means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

heritage item means:

- (a) a building, work, archaeological site or place specified in an inventory of heritage items that is available at the office of the Council and the site of which is described in Schedule 1 and shown edged heavy black on the heritage item map, or
- (b) a place described as a place of Aboriginal heritage significance in the Aboriginal Heritage Information Management System maintained by the Department of Environment and Conservation.

heritage item map means the map marked “Lismore Local Environmental Plan 2000 (Amendment No 2)—Heritage Items”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of maps) marked as follows:

Lismore Local Environmental Plan 2000 (Amendment No 14)—Sheets 32, 107, 110, 111, 112

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

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maintenance means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

place of Aboriginal heritage significance means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

potential archaeological site means a site:

- (a) that is specified in Schedule 1, described in that Schedule as a potential archaeological site, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

potential place of Aboriginal heritage significance means a place:

- (a) that is specified in an inventory of heritage items available at the office of the Council and described in the inventory as a potential place of Aboriginal heritage significance, or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

recycling drop-off centre means a building or place used for depositing second-hand or scrap packaging material (such as paper, cardboard, glass, cans and plastics) into collection containers operated by, or on behalf of, the Council for the purpose of their transfer for reprocessing or recycling.

relic means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the City of Lismore and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the City of Lismore.

storage shed means a building or place, consisting of one or more individual units, used for the storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

temporary event means the temporary use of a building or place for any purpose that is open to the general public and which:

- (a) involves the operation or use of a loudspeaker or sound amplifying device after 12 midnight, except within a building or place that is licensed as a place of public entertainment, or
- (b) requires the erection of a temporary or permanent structure greater than 60 square metres in area, or
- (c) involves the provision of overnight camping or accommodation, or
- (d) will, in the Council's opinion, have a significant impact on traffic, parking or the management of waste.

[32] Schedule 7, definition of "the map"

Insert in the appropriate order:

Lismore Local Environmental Plan 2000 (Amendment No 9)

Lismore Local Environmental Plan 2000 (Amendment No 14)—Sheet 1