



New South Wales

## **Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (NEW0004326/S69)

FRANK SARTOR, M.P.,  
Minister for Planning

## 2007 No 53

Clause 1 Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

---

# Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)*.

### 2 Aims of plan

The aims of this plan are:

- (a) to update zone objectives under *Lake Macquarie Local Environmental Plan 2004 (the principal plan)*, and
- (b) to make minor changes to development controls under the principal plan by permitting additional uses of land within certain zones, including height restrictions and increasing protection for the environment (including native vegetation), and
- (c) to address some anomalies and errors in, and omissions from, the principal plan and to clarify some of its provisions, and
- (d) to amend Schedules to the principal plan to ensure consistency with other provisions of the principal plan, and
- (e) to update development standards in the Schedules.

### 3 Land to which plan applies

This plan applies to the land to which *Lake Macquarie Local Environmental Plan 2004* applies.

### 4 Amendment of Lake Macquarie Local Environmental Plan 2004

*Lake Macquarie Local Environmental Plan 2004* is amended as set out in Schedule 1.

---

## Schedule 1 Amendments

(Clause 4)

**[1] Clause 9 Complying development**

Omit “1 September 2003”. Insert instead “22 March 2004”.

**[2] Clause 15 General controls for land within zones**

Insert “energy generation works” in alphabetical order in item 3 of the matter relating to Zone 1 (1) Rural (Production) Zone in the Land use table to clause 15.

**[3] Clause 15, Land use table**

Omit “home based businesses, general stores or community service activities” from paragraph (b) of item 1 of the matter relating to Zone 2 (1) Residential Zone.

Insert instead “general stores, community service activities or development that includes home businesses”.

**[4] Clause 15, Land use table**

Insert “educational establishments” in alphabetical order in item 3 of the matter relating to Zone 2 (2) Residential (Urban Living) Zone.

**[5] Clause 15, Land use table**

Insert “car repair stations”, “large-scale commercial premises”, “recreation facilities” and “veterinary hospitals” in alphabetical order in item 3 of the matter relating to Zone 3 (1) Urban Centre (Core) Zone.

**[6] Clause 15, Land use table**

Insert “large-scale commercial premises” in alphabetical order in item 3 of the matter relating to Zone 3 (2) Urban Centre (Support) Zone.

**[7] Clause 15, Land use table**

Insert “sustainable generating works” in alphabetical order in item 3 of the matter relating to Zone 4 (1) Industrial (Core) Zone.

**[8] Clause 15, Land use table**

Omit “and,” from paragraph (a) of item 1 of the matter relating to Zone 4 (3) Industrial (Urban Services) Zone.

Insert instead “and”.

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

**[9] Clause 15, Land use table**

Insert after paragraph (b) of item 1 of the matter relating to Zone 4 (3) Industrial (Urban Services) Zone:

- (b1) provide land for research and development, and for applied technology, that can service surrounding community needs and provide employment opportunities, and

**[10] Clause 15, Land use table**

Omit “function” from paragraph (c) of item 1 of the matter relating to Zone 4 (3) Industrial (Urban Services) Zone.

Insert instead “and commercial functions”.

**[11] Clause 15, Land use table**

Insert “large-scale commercial premises” in alphabetical order in item 3 of the matter relating to Zone 4 (3) Industrial (Urban Services) Zone.

**[12] Clause 15, Land use table**

Insert “restaurants” in alphabetical order in item 3 of the matter relating to Zone 5 Infrastructure Zone.

**[13] Clause 15, Land use table**

Insert “educational establishments” in alphabetical order in item 3 of the matter relating to Zone 6 (2) Tourism and Recreation Zone.

**[14] Clause 15, Land use table**

Insert at the end of item 1 of the matter relating to Zone 7 (4) Environmental (Coastline) Zone:

, and

- (i) protect, enhance and manage corridors to facilitate species movement, and the dispersal and interchange of genetic material.

**[15] Clause 15, Land use table**

Insert “geological,” after “ecological,” in paragraph (a) of item 1 of the matter relating to Zone 7 (5) Environmental (Living) Zone.

**[16] Clause 15, Land use table**

Insert “sustainable generating works” and “waste management and/or recycling facilities” in alphabetical order in item 3 of the matter relating to Zone 9 Natural Resources Zone.

---

**[17] Clause 23 Foreshore development and development below DP high water mark**

Omit “that is” from clause 23 (2) (b). Insert instead “that it is”.

**[18] Clause 24 Subdivision**

Insert after clause 24 (5):

- (6) The subdivision of land in Zone 2 (1) for small lot housing, a dual occupancy-detached or a dual occupancy-attached is prohibited if it would result in the creation of any battle-axe lots.
- (7) The subdivision of land in Zone 2 (2) for small lot housing is prohibited if it would result in the creation of any battle-axe lots.
- (8) The subdivision of land in Zone 10 is prohibited.

**[19] Clause 26 Dwelling houses and dual occupancies in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10**

Omit “one, but not more than one” from clause 26 (4).

**[20] Clause 26 (4)**

Insert “a” before “dwelling house” wherever occurring.

**[21] Clause 26 (5)**

Omit the subclause. Insert instead:

- (5) Consent must not be granted for the erection or creation of a dwelling house or dual occupancy-attached on a dwelling lot if its erection or creation would mean:
  - (a) if the lot is in Zone 1 (1), 7 (1), 7 (2), 7 (3) or 10—that there is more than one dwelling house on the dwelling lot (counting any dwelling house already on the lot), or
  - (b) if the lot is in Zone 1 (1), 7 (2) or 7 (3)—that there are more than two dwellings on the dwelling lot (counting any dwelling already on the lot).

**[22] Clause 27 Dwelling houses and dual occupancies in Zone 1 (2), 2 (1), 2 (2) or 7 (5)**

Omit “one but not more than one” from clause 27 (4).

**[23] Clause 27 (4) (a)–(c)**

Insert “a” before “dwelling house” wherever occurring.

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

### [24] Clause 27 (5)

Omit the subclause. Insert instead:

- (5) Consent must not be granted for the erection or creation of a dwelling house, dual occupancy-attached or dual occupancy-detached on a dwelling lot if its erection or creation would mean:
  - (a) if the lot is in Zone 1 (2), 2 (1), 2 (2) or 7 (5)—that there is more than one dwelling house on the dwelling lot (counting any dwelling house already on the lot), or
  - (b) if the lot is in Zone 1 (2), 2 (1) or 7 (5)—that there are more than two dwellings on the dwelling lot (counting any dwelling already on the lot).

### [25] Clause 29 Building heights

Omit clause 29 (1).

### [26] Clause 29 (2)

Omit “9”. Insert instead “8”.

### [27] Clause 34 Trees and native vegetation

Insert after the heading to the clause:

**Note.** Part 6 contains controls relating to trees that are heritage items or within heritage conservation areas.

### [28] Clause 34 (2)

Insert “that is in force” after “consent”.

### [29] Clause 34 (3) (a) and (b)

Omit the paragraphs. Insert instead:

- (a) the clearing of trees or native vegetation authorised or required by or under the *Electricity Supply Act 1995*, or
- (b) the clearing of trees or native vegetation authorised or required by or under the *Roads Act 1993*, or

### [30] Clause 34 (3) (i) and (j)

Omit the paragraphs. Insert instead:

- (i) bushfire hazard reduction work, within the meaning of the *Rural Fires Act 1997*, that is exempted from any requirement for development consent by the operation of that Act, or

- (j) the clearing of any tree (other than any tree listed on the Council's *Significant Tree Register*) or native vegetation that is:
  - (i) within 5 metres of the outermost projection of a lawfully used building (being a building that is not exempt development), and
  - (ii) on the same allotment as that building,but only if a development consent does not require the tree or native vegetation to be retained, or
- (k) the clearing of any tree (other than a tree listed on the Council's *Significant Tree Register*) or native vegetation that is:
  - (i) within 1 metre of a sealed driveway to a lawfully used building (being a building that is not exempt development), and
  - (ii) on the same allotment as that building,but only if a development consent does not require the tree or native vegetation to be retained, or
- (l) the clearing of any tree or native vegetation where the Council is satisfied beforehand that the tree or native vegetation ought to be cleared because it is dangerous to life or property, or
- (m) the clearing of any tree or native vegetation required by an order given under Division 1 of Part 2 of Chapter 7 of the *Local Government Act 1993*.

**[31] Clause 34 (4) (d)**

Omit "communities".

Insert instead "vegetation communities, flora and fauna corridors".

**[32] Clause 55 Acquisition of land required for community purposes**

Insert "or 7 (2)" after "6 (1)" wherever occurring in clause 55 (3) and (4).

**[33] Clause 60 Development on land adjoining Zones 5, 7 (1), 7 (4) and 8**

Insert after clause 60 (2):

- (2A) Consent must not be granted to development on land adjoining or adjacent to land within Zone 7 (4) unless the consent authority is satisfied that the proposed development is consistent with:
  - (a) the effective conservation of the coastal corridor and cultural heritage within the zone, and

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

- (b) the provision of the coastal walk and public access within the zone, and
- (c) the protection of land within the zone from:
  - (i) any adverse impacts on the scenic or visual values of the land, and
  - (ii) any stormwater runoff, erosion and sedimentation, pollution, weed infestation, feral or domestic animals, chemicals, nutrients and the like.

**[34] Schedule 1 Exempt development**

Omit “33” from clause 2 (1) (m). Insert instead “34”.

**[35] Schedule 1, Table**

Omit paragraph (g) from the matter relating to general criteria for Advertising structures in Column 3 of the Table to the Schedule.

Insert instead:

- (g) must meet all applicable performance criteria in Part 2.7.7 (Signs) of *Lake Macquarie Development Control Plan No 1—Principles of Development*, and

**[36] Schedule 1, Table**

Omit “Located behind the building line.” from Column 3 of the matter relating to Awnings over trade waste disposal points.

Insert instead “Not located within front building setback.”.

**[37] Schedule 1, Table**

Omit “boundary” from Column 3 of the matter relating to Awnings over trade waste disposal points.

Insert instead “building”.

**[38] Schedule 1, Table**

Omit “the Council’s *Guide for Bed and Breakfast Establishments*” from Column 3 of the matter relating to Bed and breakfast establishments up to 2 bedrooms.

Insert instead “Part 3.7.8 (Bed and Breakfast Establishment) of *Lake Macquarie Development Control Plan No 1—Principles of Development*”.



**[39] Schedule 1, Table**

Insert “, and the Council must have supplied written evidence of that inspection,” after “by the Council” in Column 3 of the matter relating to Bed and breakfast establishments up to 2 bedrooms.

**[40] Schedule 1, Table**

Omit “No advertising signs.” from Column 3 of the matter relating to Bus shelters.

Insert instead “Advertising signs must not be attached.”.

**[41] Schedule 1, Table**

Omit “Bush regeneration and riparian and littoral and foreshore stabilisation works” from Column 1.

Insert instead “Bush regeneration, beach cleaning and raking, and riparian, littoral and foreshore stabilisation works”.

**[42] Schedule 1, Table**

Omit paragraph (d) from Column 3 of the matter relating to Bush regeneration, beach cleaning and raking, and riparian, littoral and foreshore stabilisation works (as amended by item [41]).

Insert instead:

(d) not cause or contribute to soil erosion or instability.

**[43] Schedule 1, Table**

Omit “Behind front building line.” from Column 3 of the matter relating to Carports.

Insert instead “Minimum front building setback of 6 metres.”.

**[44] Schedule 1, Table**

Insert “wholly” after “Located” in Column 3 of the matter relating to Charity bins/clothing and recycling bins.

**[45] Schedule 1, Table**

Omit “area 2 metres by 1 metre” from Column 3 of the matter relating to Compost heaps.

Insert instead “volume of 2 cubic metres”.

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

**[46] Schedule 1, Table**

Omit “area 2 metres by 2 metres” from Column 3 of the matter relating to Compost heaps.

Insert instead “volume of 8 cubic metres”.

**[47] Schedule 1, Table**

Omit “2 metres” from Column 3 of the matter relating to Decks attached to dwellings (roofed and/or unroofed and open and/or enclosed)/patio abutting a dwelling.

Insert instead “4 metres”.

**[48] Schedule 1, Table**

Insert “, or vice versa” after “Different use resulting from change of use of shop to an office or other commercial premises” in Column 1.

**[49] Schedule 1, Table**

Omit “Does not include drug use rehabilitation clinics, including methadone clinics or safe injecting rooms.” from Column 3 of the matter relating to Different use resulting from change of use of shop to an office or other commercial premises, or vice versa (as amended by item [48]).

Insert instead “Different use does not include a brothel, a bottle shop, food premises, a drug use rehabilitation clinic, a methadone clinic or a safe injecting room.”.

**[50] Schedule 1, Table**

Omit “Different use must not be for the purpose of a brothel” from Column 3 of the matter relating to Different use resulting from change of use of shop to an office or other commercial premises, or vice versa (as amended by item [48]).

**[51] Schedule 1, Table**

Insert in alphabetical order of the matter contained in Column 1:

Different use resulting from change of use of an office to an office	Zones 3 (1) and 3 (2)	
Different use resulting from change of use of a shop to a shop	Zones 3 (1) and 3 (2)	Different use does not include food premises where food is stored or prepared or a bottle shop.
Internal alterations comprising office or shop fit-out	Zones 3 (1) and 3 (2)	Non-structural alterations only. Alterations must meet the relevant deemed-to-satisfy provisions of the <i>Building Code of Australia</i> . Alterations must not cause the existing building in which they are carried out to contravene the <i>Building Code of Australia</i> . No alterations to bottle shop or to food premises where food is stored or prepared.

**[52] Schedule 1, Table**

Omit the matter relating to Fences/privacy screens/trellises and the matter relating to Fences—boundary (side, front and rear fences and corner lots).

Insert instead:

Fences (all types)	All zones	General requirement in addition to the particular requirements listed for the different types of fences: (a) must be constructed so that they do not prevent the natural flow of stormwater drainage, (b) must not be located wholly or partly between a foreshore building line and the water body in relation to which the foreshore building line is fixed.
--------------------	-----------	--

## 2007 No 53

### Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

#### Schedule 1 Amendments

---

Fences—boundary (side, front and rear fences and on corner lots)	All zones	Maximum height of 1 metre if constructed of brick or masonry. Maximum height of 1.8 metres for side or rear fences (unless constructed of brick or masonry). Maximum height of 1 metre for front fences. Front fences must comply with Part 2.7.8 (Fences) of <i>Lake Macquarie Development Control Plan No 1—Principles of Development</i> . Boundary fences on corner lots must comply with Acceptable Solution A1.4 in Part 2.7.8 (Fences) of <i>Lake Macquarie Development Control Plan No 1—Principles of Development</i> .
--	-----------	--

**[53] Schedule 1, Table**

Insert “Maximum height of 1.8 metres.” in Column 3 of the matter relating to Fences—electric.

**[54] Schedule 1, Table**

Omit “Not between a foreshore building line and the water body in relation to which it is fixed.” from Column 3 of the matter relating to Fences—masonry or brick.

**[55] Schedule 1, Table**

Insert in alphabetical order of the matter contained in Column 1:

Footway dining	Zones 3 (1), 3 (2), 4 (3), 5, 6 (1), 6 (2) and 7 (4)	Only if in accordance with a current footway dining licence issued by the Council under section 125 of the <i>Roads Act 1993</i> .
----------------	--	--

**[56] Schedule 1, Table**

Omit “Complies with Division 3 of Schedule 5 to the *Local Government (Orders) Regulation 1999* (Standards for keeping birds or animals—Keeping of horses and cattle)” from Column 3 of the matter relating to Horse stables and animal shelters keeping up to 4 horses.

Insert instead “Complies with any standards relating to the keeping of horses and cattle set out in regulations made under the *Local Government Act 1993* (being standards enforceable by the making of Order No 18 under section 124 of that Act)”.

**[57] Schedule 1, Table**

Omit “Complies with Division 3 of Schedule 5 to the *Local Government (Orders) Regulation 1999* (Standards for keeping birds or animals—Keeping of horses and cattle)” from Column 3 of the matter relating to Horse stables and animal shelters keeping up to 2 horses.

Insert instead “Complies with any standards relating to the keeping of horses and cattle set out in regulations made under the *Local Government Act 1993* (being standards enforceable by the making of Order No 18 under section 124 of that Act)”.

**[58] Schedule 1, Table**

Insert in alphabetical order of the matter contained in Column 1:

Landscaping	All zones	May only be carried out in road reserves, parks or on land containing a dwelling house. Landscaping does not include earthworks or the construction of retaining walls or other structures.
-------------	-----------	--

**[59] Schedule 1, Table**

Omit “then as long as no part of the pitched roof is closer than 3 metres from the side and rear boundaries,” from Column 3 of the matter relating to Pergola.

**[60] Schedule 1, Table**

Omit “boundary” from Column 3 of the matter relating to Pergola.

Insert instead “building”.

**[61] Schedule 1, Table**

Insert in alphabetical order of the matter contained in Column 1:

Privacy screens or trellises	All zones	Must be constructed so that they do not obstruct the natural flow of stormwater drainage. Must not be located wholly or partly between a foreshore building line and the water body in relation to which the foreshore building line is fixed. Maximum height of 1.8 metres. Must comply with <i>Lake Macquarie Development Control Plan No 1—Principles of Development</i> .
------------------------------	-----------	--

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

**[62] Schedule 1, Table**

Insert “in, on, under or above a road” after “Road works” in Column 1.

**[63] Schedule 1, Table**

Insert at the end of the paragraph (i) of the matter relating to Road works in Column 1:

(j) minor intersection improvements or minor road widening.

**[64] Schedule 1, Table**

Insert “Must be ancillary to agriculture.” in Column 3 of the matter relating to Shade structures (bird nets and the like).

**[65] Schedule 1, Table**

Omit “To be constructed in accordance with the Council’s Subdivision Requirements and NSW Department of Housing Construction Specifications.” from Column 3 of the matter relating to Subdivision works.

Insert instead:

To be constructed in accordance with Parts 1 and 2 (Subdivision and Development Engineering Guidelines) of Volume 2 of the guidelines supporting *Lake Macquarie Development Control Plan No 1—Principles of Development*.

**[66] Schedule 1, Table**

Omit “To be constructed in accordance with Department of Housing Construction Specifications.” from Column 3 of the matter relating to Subdivision works.

Insert instead:

To be constructed in accordance with Parts 1 and 2 (Subdivision and Development Engineering Guidelines) of Volume 2 of the guidelines supporting *Lake Macquarie Development Control Plan No 1—Principles of Development*.

**[67] Schedule 1, Table**

Omit paragraph (b) (ii) from Column 3 of the matter relating to Water tanks at or above ground level.

**[68] Schedule 1, Table**

Omit paragraph (b) (iv) in Column 3 of the matter relating to Water tanks at or above ground level.

Insert instead:

- (iv) Located wholly behind the front building setback or, if there is more than one building frontage, wholly behind the building line of the frontage that is furthest away from the front boundary of the lot.

**[69] Schedule 1, Table**

Omit paragraph (c) (iv) in Column 3 of the matter relating to Water tanks at or above ground level.

Insert instead:

- (iv) Located wholly behind the front building setback or, if there is more than one building frontage, wholly behind the building line of the frontage that is furthest away from the front boundary of the lot.

**[70] Schedule 2 Subdivision Standards**

Insert after the heading to the Schedule:

**Note.** The standards set out in the following table need to be read with the material at the end of the table headed “**Explanation of entries in Table**”.

**[71] Schedule 2, Table**

Omit “No neighbourhood lot is to have direct frontage to a public road.” from the matter relating to Zone 1 (2) Rural (Living).

Insert instead “Vehicular access from a neighbourhood lot to a public road must be via community property, precinct property or neighbourhood property (within the meaning of the *Community Land Development Act 1989*), unless a dwelling on the land comprised in the lot has vehicular access to a public road immediately before the lot is created.”.

**[72] Schedule 2, Table**

Omit “No neighbourhood lot must have direct frontage to a public road.” wherever occurring in the matter relating to Zone 7 (3) Environmental (General) and Zone 7 (5) Environmental (Living).

Insert instead “Vehicular access from a neighbourhood lot to a public road must be via community property, precinct property or neighbourhood property (within the meaning of the *Community Land Development Act 1989*), unless a

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

dwelling on the land comprised in the lot has vehicular access to a public road immediately before the lot is created.”.

**[73] Schedule 4 Heritage items other than of indigenous origins and including potential archaeological sites**

Omit the property description relating to Item BL-01 in Part 1 of the Schedule.  
Insert instead “Lot 3, DP 237547”.

**[74] Schedule 4, Part 1, Item BU-03**

Omit the property description relating to the Item.  
Insert instead “Pt Lot 468, DP 774186”.

**[75] Schedule 4, Part 1, Item CW-01**

Omit the property description relating to the Item.  
Insert instead “Lot 2, DP 616354”.

**[76] Schedule 4, Part 1, Item CB-01**

Omit the property description relating to the Item.  
Insert instead “Lot 1, DP 919600”.

**[77] Schedule 4, Part 1, Item CB-27**

Omit the property description relating to the Item.  
Insert instead “Lots 18 to 23, Section 3, DP 3533”.

**[78] Schedule 4, Part 1, Item CB-28**

Omit the property description relating to the Item.  
Insert instead “Lot 201, DP 1059478”.

**[79] Schedule 4, Part 1, Item ER-01**

Omit “Lot 29, DP 262501” from the property description relating to the Item.  
Insert instead “Lot 10, DP 1050120”.

**[80] Schedule 4, Part 1, Item ER-01**

Omit “Lot 52, DP 840671” from the property description relating to the Item.  
Insert instead “Lot 11, DP 1050120”.



**[81] Schedule 4, Part 1, Item MS-12**

Omit the address and the property description relating to the Item.

Insert instead “84 Bridge Street, Morisset” and “Lot 1, DP 880557”, respectively.

**[82] Schedule 4, Part 1, Item MS-13**

Omit the address and the property description relating to the Item.

Insert instead “84 Bridge Street, Morisset” and “Lot 1, DP 880557”, respectively.

**[83] Schedule 4, Part 1, Item MS-14**

Omit the address and the property description relating to the Item.

Insert instead “84 Bridge Street, Morisset” and “Lot 1, DP 880557”, respectively.

**[84] Schedule 4, Part 1, Item MS-15**

Omit the address and the property description relating to the Item.

Insert instead “84 Bridge Street, Morisset” and “Lot 1, DP 880557”, respectively.

**[85] Schedule 4, Part 1, Item MS-16**

Omit the address and the property description relating to the Item.

Insert instead “84 Bridge Street, Morisset” and “Lot 1, DP 880557”, respectively.

**[86] Schedule 4, Part 1, Item RT-05**

Insert “Lots 1, 2 and 9, DP 1038830” opposite the Item in the column headed “**Property description**”.

**[87] Schedule 4, Part 1, Item RM-02**

Omit the property description relating to the Item.

Insert instead “Lot 64, DP 596913”.

**[88] Schedule 4, Part 1, Item RM-03**

Omit the property description relating to the Item.

Insert instead “Lot 64, DP 596913”.

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

- [89] Schedule 4, Part 1, Item RM-05**  
Omit the property description relating to the Item.  
Insert instead “Lot 64, DP 596913”.
- [90] Schedule 4, Part 1, Item RM-07**  
Omit the property description relating to the Item.  
Insert instead “Lot 64, DP 596913”.
- [91] Schedule 4, Part 1, Item RM-09**  
Omit the property description relating to the Item.  
Insert instead “Lot 64, DP 596913”.
- [92] Schedule 4, Part 1, Item RM-10**  
Omit the property description relating to the Item.  
Insert instead “Lot 64, DP 596913”.
- [93] Schedule 4, Part 1, Item TA-10**  
Omit the property description relating to the Item.  
Insert instead “Lot 7, Section A, DP 447469”.
- [94] Schedule 4, Part 1, Item TT-08**  
Omit the property description relating to the Item.  
Insert instead “Lots 7044 to 7046, DP 1052029 and Lot 7058, DP 1052031”.
- [95] Schedule 4, Part 1, Item TT-11**  
Omit the property description relating to the Item.  
Insert instead “Lot 220, DP 1021925”.
- [96] Schedule 4, Part 1, Item TT-17**  
Omit the property description relating to the Item.  
Insert instead “Lot X, DP 406274, Pt Lot 424, DP 823708, Lot 1, DP 917503”.
- [97] Schedule 4, Part 1, Item TT-38**  
Omit the property description relating to the Item.  
Insert instead “Lot 21, Section 7, DP 4236”.

---

**[98] Schedule 4, Part 1, Item WW-02**

Omit the property description relating to the Item.

Insert instead “Pt Lot 106, DP 1000408”.

**[99] Schedule 7 Additional development allowed on certain land**

Omit all matter relating to Item 1 in Schedule 7.

**[100] Schedule 7, Item 3**

Omit “DP 10262” from Column 1 of the matter relating to the item.

Insert instead “DP 787875”.

**[101] Dictionary**

Insert in alphabetical order:

***bottle shop*** means premises to which an off-licence to sell liquor by retail (granted under the *Liquor Act 1982*) relates.

***bushland regeneration*** means:

- (a) the removal of environmental weeds, and the rehabilitation of a degraded native vegetation community or ecosystem, using methods that do not damage the native vegetation or disturb the natural soil surface or hydrology, and
- (b) the planting of native vegetation that is indigenous to the site to establish a healthy population of that vegetation.

***front building setback*** means the minimum distance from a lot’s frontage to which the outermost projection of a structure may be built on the lot, as specified in Part 3 of *Lake Macquarie Development Control Plan No 1—Principles of Development*.

***gross floor area*** means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1,400 millimetres above each floor level) excluding:

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) car parking needed to meet any requirements of the Council and any internal access to such parking, and
- (d) space for the loading and unloading of goods.

## 2007 No 53

Lake Macquarie Local Environmental Plan 2004 (Amendment No 2)

Schedule 1 Amendments

---

***Lake Macquarie Development Control Plan No 1—Principles of Development*** means *Lake Macquarie Development Control Plan No 1—Principles of Development—Revision 01* as adopted by the Council on 30 January 2006.

***large-scale commercial premises*** means premises, or part of premises, that have a gross floor area of not less than 500 square metres, and are used for the purpose of an office, or any other commercial or business purpose, by a single occupancy, but does not include any other premises defined in this Dictionary.

***manufactured home estate*** has the same meaning as it has in *State Environmental Planning Policy No 36—Manufactured Home Estates*.

***natural ground level*** means the ground level of a site before any development has been carried out that alters the naturally occurring height or contours of the site.

***public authority*** has the same meaning as it has in the Act.

***storey*** means the space within a building that is situated between one floor level and the next floor level above, or if there is no floor level above, the ceiling or roof above, but does not include a space that only contains:

- (a) a lift shaft, stairway or metre rooms, or
- (b) a bathroom, laundry or similar room, or
- (c) parking accommodation intended for less than 3 vehicles, or
- (d) a combination of the items, rooms or accommodation referred to in paragraphs (a)–(c), or
- (e) a mezzanine floor.

**[102] Dictionary, definition of “community title subdivision”**

Omit the definition.

**[103] Dictionary, definition of “mixed use development”**

Omit “mix of some or all”. Insert instead “combination of two or more”.

**[104] Dictionary, definitions of “native vegetation” and “tree”**

Omit the definitions. Insert instead:

***native vegetation*** has the same meaning as it has in the *Native Vegetation Act 2003*, including scrub that is native vegetation but does not include any tree, sapling or shrub.

*tree* includes:

- (a) any sapling or shrub that is more than 3 metres in height or has a trunk with a diameter, at ground level, of 75mm or more, and
- (b) any species of vegetation that existed in the State of New South Wales before European settlement, and
- (c) any vegetation listed on the Council's *Significant Tree Register*.

**Note.** The term *tree* includes any tree within the ordinary meaning of that term, such as the Norfolk Island Pine. The above definition extends the meaning of *tree* to include plants that might not otherwise be considered to be trees.

**[105] Dictionary, definition of "residential flat building"**

Insert "natural" after "below" in paragraph (a) of the definition.

**[106] Dictionary, definition of "residential flat building"**

Omit "(whether or not the building is also used for other purposes, such as shops)" from paragraph (b) of the definition.

**[107] Dictionary, definition of "restaurant"**

Insert "footway dining," after "take-away,".