



New South Wales

# **Maitland Local Environmental Plan 1993 (Amendment No 100)**

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*. (N06/00095/PC)

KRISTINA KENEALLY, MP  
Minister for Planning

## 2009 No 484

Clause 1 Maitland Local Environmental Plan 1993 (Amendment No 100)

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# Maitland Local Environmental Plan 1993 (Amendment No 100)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of Plan

This Plan is *Maitland Local Environmental Plan 1993 (Amendment No 100)*.

### 2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

### 3 Aims of Plan

The aims of this Plan are:

- (a) to replace the definitions of ***Business premises***, ***Dual occupancy*** and ***Housing for seniors or people with a disability*** with the definitions in the *Standard Instrument (Local Environmental Plans) Order 2006* and make no change to where these uses are permissible, and
- (b) to insert a definition of ***Market*** (as defined in the *Standard Instrument (Local Environmental Plans) Order 2006*), make no change to where this use is permissible with consent on land in Zones 3 (a) General Business and 3 (b) Support Business and allow development with consent in Zone 6 (b) Private Recreation, and
- (c) to insert a definition of ***Serviced apartment*** (as defined in the *Standard Instrument (Local Environmental Plans) Order 2006*) and make no change to where this use is permissible with consent on land in Zones 2 (a) Residential, 2 (b) Flood Liable Residential, 3 (a) General Business and 3 (b) Support Business, and
- (d) to omit the definition of ***landscaped area***, which is not used in *Maitland Local Environment Plan 1993*, and
- (e) to rezone certain land in Bolwarra Heights to Zones 2 (a) Residential and 6 (a) Public Recreation to clarify zoning anomalies, and

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- (f) to rezone certain land in East Maitland to Zones 1 (b) Secondary Rural Land and 2 (a) Residential to clarify zoning anomalies, and
  - (g) to rezone certain land in Metford to Zones 2 (a) Residential and 6 (a) Public Recreation to clarify zoning anomalies, and
  - (h) to rezone certain land in Bolwarra to Zone 7 (c) Environment Protection General, and
  - (i) to amend the definition of *Separate parcel* for the purposes of the erection of dwelling houses in rural zones, and
  - (j) to replace the provisions relating to the acquisition of private land with the relevant provisions as set out in the *Standard Instrument (Local Environmental Plans) Order 2006*, and
  - (k) to identify land as a clay conservation area, and
  - (l) to clarify the restrictions that apply to development of land near the Hunter River and flood works and within floodways.

#### 4 Land to which Plan applies

- (1) In respect of the aims referred to in clause 3 (a)–(d), (j) and (l), this Plan applies to all land within the City of Maitland to which *Maitland Local Environmental Plan 1993* applies.
- (2) In respect of the aim referred to in clause 3 (e), this Plan applies to certain land at Bolwarra Heights, as shown edged heavy black on Sheet 1 of the map marked “Maitland Local Environmental Plan 1993 (Amendment No 100)” deposited in the office of Maitland City Council (the *map*).
- (3) In respect of the aim referred to in clause 3 (f), this Plan applies to certain land at East Maitland, as shown edged heavy black on Sheet 2 of the map.
- (4) In respect of the aim referred to in clause 3 (g), this Plan applies to certain land at Metford, as shown edged heavy black on Sheet 3 of the map.
- (5) In respect of the aim referred to in clause 3 (h), this Plan applies to certain land at Bolwarra, as shown edged heavy black on Sheet 4 of the map.
- (6) In respect of the aim referred to in clause 3 (i), this Plan applies to all land within the City of Maitland to which Zones 1 (a) Prime Rural Land, 1 (b) Secondary Rural Land, 1 (c) Rural Small Holdings and 1 (d) Rural Residential apply.
- (7) In respect of the aim referred to in clause 3 (k), this Plan applies to certain land within the City of Maitland, as shown edged heavy black and hatched on Sheet 5 of the map.

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Schedule 1 Amendment of Maitland Local Environmental Plan 1993

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### Schedule 1 Amendment of Maitland Local Environmental Plan 1993

**[1] Clause 5 How are terms defined in this plan?**

Omit the definitions of *Business premises*, *Dual occupancy* and *Housing for seniors or people with a disability* from clause 5 (1).

Insert instead in alphabetical order:

*Business premises* means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

*Dual occupancy* means 2 dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme), but does not include a secondary dwelling.

*Seniors housing* means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

**[2] Clause 5 (1), definition of "Landscaped area"**

Omit the definition.

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**[3] Clause 5 (1)**

Insert in alphabetical order:

*Market* means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

*Serviced apartment* means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

**[4] Clause 5 (1), definition of "The map"**

Insert in appropriate order:

Maitland Local Environmental Plan 1993 (Amendment No 100)—Sheets 1–5

**[5] Clause 13 What are the requirements with respect to the erection of dwellings in rural zones?**

Omit the definition of *Separate parcel* from clause 13 (1). Insert instead:

*Separate parcel* means an allotment of land in existence on 3 September 1993 or the aggregation of two or more adjoining or adjacent allotments of land if they were in common ownership on 3 September 1993.

**[6] Clause 13 (3) (a)**

Omit the paragraph. Insert instead:

- (a) the land comprises an allotment the subdivision of which was approved by Council after 7 December 1960, or

**[7] Clause 25 What open space zones apply in this plan?**

Insert “; Market” in alphabetical order in Item (4) of the matter relating to Zone 6 (b) Private Recreation.

**[8] Clause 26**

Omit the clause. Insert instead:

**26 Relevant acquisition authority**

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the

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relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note.** If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land specified in the Table (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

<b>Land</b>	<b>Authority of the State</b>
Zone 6 (a) Public Recreation	Council
Zone 6 (c) Proposed Recreation	Council

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

### [9] **Clause 40**

Omit the clause. Insert instead:

#### **40 What restrictions apply to development of land near Hunter Valley rivers and flood works?**

The Council must not consent to the carrying out of development for any purposes within 20 metres of:

- (a) any flood work (within the meaning of the *Water Management Act 2000*), or  
(b) the bank of any part of the Hunter River (within the meaning of section 254 of that Act),

unless it has taken into consideration the likely effect of the proposed development in relation to the flooding of land in the vicinity of the land on which the proposed development is to be carried out.

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**[10] Clause 41 What restrictions apply to development of land within floodways?**

Omit “after having regard to any relevant comments of the Council’s Flood Plain Management Committee,” from clause 41 (1).