



New South Wales

# **Maclean Local Environmental Plan 2001 (Amendment No 20)**

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*. (G95/00285/PC-1)

TONY KELLY, MLC  
Minister for Planning

## **2010 No 140**

Clause 1 Maclean Local Environmental Plan 2001 (Amendment No 20)

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## **Maclean Local Environmental Plan 2001 (Amendment No 20)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Plan**

This Plan is *Maclean Local Environmental Plan 2001 (Amendment No 20)*.

### **2 Commencement**

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

### **3 Land to which Plan applies**

This Plan applies to the land shown edged heavy black on the map marked "Maclean Local Environmental Plan 2001 (Amendment No 20)" deposited in the office of Clarence Valley Council.

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## Schedule 1      Amendment to Maclean Local Environmental Plan 2001

### [1]    Clause 7 Dictionary

Insert in alphabetical order in clause 7 (1):

***designated State public infrastructure*** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

***filling*** means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) the use of land as a waste disposal facility.

***public utility infrastructure***, in relation to an urban release area, includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

***urban release area*** means land in Zone No 2 (c).

### [2]    Clause 7 (1), definition of “hotel”

Omit the definition. Insert instead:

***hotel*** means the premises to which a hotel licence, granted under the *Liquor Act 2007*, relates.

### [3]    Clause 7 (1), definition of “the map”

Insert in appropriate order:

Maclean Local Environmental Plan 2001 (Amendment No 20)

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

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**[4] Clause 9 Development of land near boundaries of adjoining zones**

Insert “(other than land to which Part 8 applies)” after “land” in clause 9 (1).

**[5] Clause 10**

Omit the clause. Insert instead:

**10 Bush fire prone land**

- (1) Consent must not be granted to the carrying out of development on bush fire prone land unless the Council is satisfied that adequate provision has been or will be made for the reduction of bushfire hazard on the land.
- (2) In this clause:  
*bush fire prone land* means land within the local government area of Maclean recorded for the time being as bush fire prone land on the bush fire prone land map held in the offices of the Council, as certified by the Commissioner of the NSW Rural Fire Service under section 146 of the Act.

**[6] Clause 15A**

Insert after clause 15:

**15A Restriction on land filling from West Yamba**

Development consent must not be granted for development for the purpose of the filling of land in any zone if the filling is to be taken from land to which Part 8 applies.

**[7] Clause 24 Zones indicated on the map**

Insert the following zones in appropriate order:

Zone No 1 (y), Rural (West Yamba Rural Residential) Zone—uncoloured with heavy black edging and lettered “1 (y)”.

Zone No 2 (c), Residential (West Yamba) Zone—uncoloured with heavy black edging and lettered “2 (c)”.

Zone No 7 (d), Environmental Protection (Residential Habitat) Zone—uncoloured with heavy black edging and lettered “7 (d)”.

Zone No 7 (r), Environmental Protection (Riparian) Zone—uncoloured with heavy black edging and lettered “7 (r)”.

**[8] Clause 33 Subdivision of land within two or more zones**

Insert at the end of the clause:

- (5) This clause does not apply to land to which Part 8 applies.

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**[9] Clause 34 Subdivision in rural zones otherwise than for the purpose of commercial farming, dwelling houses, duplexes, forestry or rural workers' dwellings**

Insert at the end of the clause:

- (2) This clause does not apply to land to which Part 8 applies.

**[10] Clause 36 Dwelling houses and duplexes in rural zones**

Insert at the end of the clause:

- (2) This clause does not apply to land that is within a rural zone and to which Part 8 applies.

**[11] Clause 37 Rural workers' dwellings**

Insert at the end of the clause:

- (3) This clause does not apply to land that is within a rural zone and to which Part 8 applies.

**[12] Clause 48 Subdivision of land within two or more zones**

Insert at the end of the clause:

- (5) This clause does not apply to land to which Part 8 applies.

**[13] Clause 59 Subdivision of land within two or more zones**

Insert at the end of the clause:

- (5) This clause does not apply to land to which Part 8 applies.

**[14] Clause 60 Dwelling houses in environmental protection zones**

Insert at the end of the clause:

- (2) This clause does not apply to land to which Part 8 applies.

**[15] Clause 61 Development within environmental protection zones**

Insert "other than land to which Part 8 applies" after "zone" in clause 61 (1).

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

---

### [16] Parts 8 and 9

Insert after clause 67:

## Part 8 West Yamba provisions

### 68 Land to which this Part applies

This Part applies to the land shown edged heavy black on the map marked “Maclean Local Environmental Plan 2001 (Amendment No 20)” deposited in the office of Clarence Valley Council.

### 69 Objectives of this Part

The objectives of this Part are:

- (a) to rezone land at West Yamba from Zone No 1 (i) Rural (Investigation) Zone to a variety of zones that permit environmental protection, rural residential development and urban residential development, and
- (b) to implement the *Clarence Valley Settlement Strategy 1999* and the *Maclean Shire Council Strategic Land Use Plan 1995–2016*, and
- (c) to protect riparian areas, land of high conservation value and land of landscape or scenic value, and
- (d) to provide housing in close proximity to the existing urban area of Yamba and compatible with nearby environmental protection areas, and
- (e) to provide a neighbourhood business centre in a central location and land for school and community purposes, and
- (f) to permit development that complies with a development control plan, and
- (g) to permit development when adequate servicing, in particular sewerage, is available, and
- (h) to provide ecologically sustainable development, including water and energy efficient development and a stormwater management network, based on the principles of “water sensitive urban design”.

### 70 Zones applying in West Yamba, zone objectives and development control table

- (1) The following zones apply to land to which this Part applies:
  - (a) Zone No 1 (y) Rural (West Yamba Rural Residential),
  - (b) Zone No 2 (c) Residential (West Yamba),

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- (c) Zone No 5 (a) Special Uses,
  - (d) Zone No 6 (a) Open Space,
  - (e) Zone No 7 (d) Environmental Protection (Residential Habitat),
  - (f) Zone No 7 (r) Environmental Protection (Riparian).
- (2) The aims of a zone are set out in the Table to this clause under the heading “Aim of zone”.
  - (3) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
  - (4) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the development:
    - (a) that may be carried out without development consent, and
    - (b) that may be carried out only with development consent, and
    - (c) that is prohibited,is specified in that Table under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
  - (5) Except as otherwise provided by this plan, consent must not be granted to the carrying out of development on land to which this plan applies unless the consent authority is satisfied that the development is consistent with the objectives of the zone within which the development is proposed to be carried out.
- Note.** Part 5 also applies to land in Zone Nos 5 (a) and 6 (a).

**Table**

**Zone No 1 (y) Rural (West Yamba Rural Residential) Zone**

**1 Aim of zone**

The primary aim of this zone is to provide for serviced rural residential development in close proximity to Yamba.

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

---

### 2 Objectives of zone

The particular objectives of this zone are:

- (a) to allow rural residential development in West Yamba on land with a minimum lot size of 5,000 square metres and serviced by a reticulated water and sewerage system, and
- (b) to ensure that dwellings are located so that they maintain the rural character of the area and minimise disturbance to the landscape through clustering of development to minimise filling, clearing, earthworks and access roads, and
- (c) to prohibit development that is not compatible with the habitat, landscape or scenic value of the land or adjacent land, and
- (d) to minimise the impact on adjacent land by managing “edge effects” associated with clearing, filling, mosquito and bushfire management and the like.

### 3 Without development consent

Development for the purpose of:

agriculture; ancillary removal of native vegetation; bushfire control; public utility undertakings.

### 4 Only with development consent

Development for the purpose of:

home industries; rural industries.

Any other development not included in item 3 or 5.

### 5 Prohibited

Development for the purpose of:

brothels; bulk stores; car repair stations; clear felling; industries; intensive animal husbandry; junk yards; liquid fuel depots; motor showrooms; restricted premises; sawmills; total destination resorts; warehouses.



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**Zone No 2 (c) Residential (West Yamba) Zone**

**1 Aim of zone**

The primary aim of this zone is to provide sustainable urban housing adjacent to the existing urban area of Yamba, characterised by low scale residential development, compatible with the habitat, landscape and scenic value of the surrounding locality.

**2 Objectives of zone**

The particular objectives of this zone are:

- (a) to provide a sustainable urban residential neighbourhood that does not impact adversely on nearby natural areas and waterways, and
- (b) to provide a range of housing types compatible with the locality, and
- (c) to reduce the impacts of development on the natural water cycle by a range of measures, including dual water reticulation and stormwater management based on “water sensitive urban design” principles, and
- (d) to permit development that complies with a development control plan, and
- (e) to provide a neighbourhood centre in a central location, and
- (f) to ensure a residential environment free from any adverse impact from commercial and industrial uses, and
- (g) to provide adequate provision of services, such as water, reticulated sewerage and electricity, and
- (h) to ensure water and energy efficient development.

**3 Without development consent**

Development for the purpose of:

ancillary removal of native vegetation; bushfire control; public utility undertakings.

**4 Only with development consent**

Development for the purpose of:

business identification signs; caravan parks; child care centres; clearing; cluster housing; dual occupancies; dwelling houses; home industries; hospitals; neighbourhood centres; residential

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

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flat buildings; tourist facilities; utility installations (other than generating works).

### 5 Prohibited

Any development not included in item 3 or 4.

## Zone No 7 (d) Environmental Protection (Residential Habitat) Zone

### 1 Aim of zone

The primary aim of the zone is to identify, protect and conserve land of high conservation, landscape or scenic value, provide habitat connectivity and provide a separation between environmentally sensitive riparian areas (including high conservation value vegetation) and urban and rural residential areas.

### 2 Objectives of zone

The particular objectives of this zone are:

- (a) to conserve and manage land of high conservation, landscape or scenic value, and
- (b) to provide a “green backdrop” and a gradual change in density of vegetation between vegetated areas and residential development, and
- (c) to retain vegetated land identified by flora and fauna assessment as significant habitat areas, and
- (d) to enhance habitat corridors and recognise the importance of the locality as a regional habitat corridor, and
- (e) to prohibit development that would adversely affect the habitat, landscape or scenic value of the land, and
- (f) to enable development that is adequately serviced and would not have an adverse effect on the habitat, landscape or scenic value of the land, and
- (g) to permit development that complies with a development control plan.

### 3 Without development consent

Development for the purpose of:

agriculture; ancillary removal of native vegetation; bushfire control; home occupations; public utility undertakings.

**4 Only with development consent**

Development for the purpose of:

clearing; cluster housing; dams; dwelling houses; ecotourism facilities; environmental education facilities; home industries; recreation development; recreation establishments; roads.

**5 Prohibited**

Any development not included in item 3 or 4.

**Zone No 7 (r) Environmental Protection (Riparian) Zone**

**1 Aim of zone**

The primary aim of this zone is to identify, protect, conserve and enhance the natural values of riparian land in West Yamba.

**2 Objectives of zone**

The particular objectives of this zone are:

- (a) to protect and enhance native riparian vegetation, water quality and habitat value, and
- (b) to prohibit development within the zone that would adversely affect the riparian environment, and
- (c) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

**3 Without development consent**

Development for the purpose of:  
bushfire control.

**4 Only with development consent**

Development for the purpose of:

agriculture; ancillary removal of native vegetation; public utility undertakings; recreation development; utility installations.

**5 Prohibited**

Any development not included in items 3 or 4.

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

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### 71 Subdivision controls

- (1) Development consent must not be granted to subdivide land in Zone No 1 (y) unless each lot to be created will have an area of at least 0.5 hectares.
- (2) Development consent must not be granted to subdivide land in Zone No 7 (d) unless each lot to be created will have an area of at least 10 hectares.
- (3) Development consent must not be granted to subdivide land that is partly in Zone No 1 (y) and partly in Zone No 7 (d) unless the area of each lot to be created will be at least:
  - (a) for land in Zone No 1 (y)—0.5 hectares, and
  - (b) for land in Zone No 7 (d)—10 hectares.
- (4) Despite subclause (3), if the whole of the land in Zone No 7 (d) immediately before the subdivision is less than 10 hectares then the minimum area of the lot for the land in that zone is the area of the land in that zone immediately before that subdivision.
- (5) If development consent is sought to subdivide land that is partly in Zone No 1 (y) and partly in Zone No 7 (r), the total area of the land may be taken to be land in Zone No 1 (y) for the purposes of subclause (1).
- (6) If development consent is sought to subdivide land that is partly in Zone No 7 (d) and partly in Zone No 7 (r), the total area of the land may be taken to be land in Zone No 7 (d) for the purposes of subclause (2).

### 72 West Yamba neighbourhood centre controls

Development consent must not be granted for a neighbourhood centre on the land to which this Part applies unless the centre:

- (a) will be located on an accessible site in close proximity to the existing school in Carrs Drive, and
- (b) will have a total site area of not more than 1 hectare, and
- (c) will have a retail floor area of not more than 1,000 square metres and individual shops of not more than 200 square metres, and
- (d) will not include supermarkets, and
- (e) will be the only neighbourhood centre on the land to which this Part applies.

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**73 Restrictions on land filling in West Yamba**

- (1) Development consent must not be granted for development for the purposes of the filling of land in Zone No 7 (r).
- (2) Development consent must not be granted for development for the purposes of the filling of land in Zone No 7 (d), unless it is in conjunction with a use that is permissible in that zone.

**Part 9 Urban release areas****74 Arrangements for designated State public infrastructure**

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (3) Subclause (2) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a subdivision previously consented to in accordance with this clause, or
  - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).
- (5) *State Environmental Planning Policy No 1—Development Standards* does not apply to the subdivision of land to which subclause (2) applies.

## 2010 No 140

Maclean Local Environmental Plan 2001 (Amendment No 20)

Schedule 1 Amendment to Maclean Local Environmental Plan 2001

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### 75 Public utility infrastructure

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

### 76 Development control plan

- (1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.
- (2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following:
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation route, based on Carrs Drive being the main north-south collector road and Golding and Miles Streets being collector roads, a grid street pattern and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,

- (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking,
  - (k) measures to require adequate setback from the overhead electricity transmission line located in the vicinity of Miles Street.
- (4) Subclause (2) does not apply to any of the following development:
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

**77 Relationship between Part and remainder of plan**

A provision of this Part prevails over any other provision of this plan to the extent of any inconsistency.