



New South Wales

Port Stephens Local Environmental Plan 2000 (Amendment No 31)

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*. (N08/00152/PC-1)

TONY KELLY, MLC
Minister for Planning

2010 No 6

Clause 1 Port Stephens Local Environmental Plan 2000 (Amendment No 31)

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1 Name of Plan

This Plan is *Port Stephens Local Environmental Plan 2000 (Amendment No 31)*.

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 all the land to which *Port Stephens Local Environmental Plan 2000* applies.

Schedule 1 Amendment of Port Stephens Local Environmental Plan 2000

[1] **Clause 11 Rural zonings**

Insert “native vegetation” after “clearing” in Item 4 of the matter relating to Zones Nos 1 (c1), 1 (c2), 1 (c3), 1 (c4), 1 (c5)—Rural Small Holdings in the development control table.

[2] **Clause 12 Subdivision within rural zones generally**

Omit “allotment boundaries in any way” from clause 12 (1) (a) (ii).

Insert instead “a common boundary with an adjoining allotment”.

[3] **Clause 14 Dwelling-houses and dual occupancy housing in rural zones**

Omit clause 14 (4) (a)–(c). Insert instead:

- (a) the two dwellings are clustered giving the appearance of being an integrated development, and
- (b) the two dwellings have shared infrastructure such as common driveway access, fire breaks and services, and
- (c) any rural buildings are clustered, and
- (d) any clearing necessary for the dwellings is minimised.

[4] **Clause 14 (7)**

Insert after clause 14 (6):

- (7) For the purposes of subclause (4) (d), *clearing* means any manner of destruction or removal of a tree, shrub or plant (otherwise than as exempted by the Council’s adopted tree preservation order) and includes the severing or lopping of branches, limbs, stems or trunks of a tree, shrub or plant.

[5] **Clause 26 Special use zonings**

Insert “native vegetation” after “clearing” in Item 4 of the matter relating to Zone SP1 Defence and Airport Related Employment Development Zone in the development control table.

[6] **Clause 29 Recreation zonings**

Insert “native vegetation” after “clearing” wherever occurring in Item 4 of the matter relating to Zone No 6 (a)—General Recreation “A” Zone and Zone No 6 (c)—Special Recreation “C” Zone in the development control table.

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[7] Clause 32 Environment protection zonings

Insert “native vegetation” after “clearing” wherever occurring in Item 4 of the matter relating to Zone No 7 (a)—Environment Protection “A” Zone, Zone No 7 (c)—Environment Protection “C” (Water Catchment) Zone, Zone No 7 (f1)—Environment Protection “F1” (Coastal Lands) Zone and Zone No 7 (f3)—Environment Protection “F3” (Urban Conservation) Zone in the development control table.

[8] Clause 51A Development on land identified on Acid Sulfate Soils Planning Map

Omit “Maps” from the heading to Column 1 of Table 1. Insert instead “Map”.

[9] Clause 51A (3) (d)

Omit “NSW Fisheries”.

Insert instead “the Department of Environment, Climate Change and Water”.

[10] Clause 51A (7) (b)

Omit “Department of Infrastructure, Planning and Natural Resources and NSW Fisheries within 21 days of the Council having sent those Departments”.

Insert instead “Department of Environment, Climate Change and Water within 21 days of the Council having sent that Department”.

[11] Clause 59 Development of archaeological sites

Omit “or a potential archaeological site that is reasonably likely to have Aboriginal heritage significance” from clause 59 (1).

[12] Clause 59 (2)

Omit “or a potential archaeological site that is reasonably likely to have non-Aboriginal heritage significance”.

[13] Clause 60 Development in the vicinity of heritage items, heritage conservation areas or archaeological sites

Omit “, archaeological site or potential archaeological site”.

Insert instead “or archaeological site”.

[14] Schedule 2 Heritage

Omit from Part 1 the matter relating to 31A and 33A Ocean Avenue, Anna Bay (including the heading), 35 Elizabeth Street and 7 Hinton Road, Hinton, 53C Tarean Road, Karuah (including the heading), 41A Stockton Street, Nelson Bay, 1A and 2 Elizabeth Avenue and Port Stephens Street, Raymond Terrace and 10 Grape Street, Seaham.

[15] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Anna Bay**”:

DP 753204 31A and 33A Ocean Avenue (16.31/1 and 16.33/1)	Birubi Point Cemetery
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[16] Schedule 2, Part 2

Insert in alphabetical order of locality:

Eagleton

Lot 2, DP 826917 57 Newline Road (810.57)	Eagleton Shipyard site
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[17] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Hinton**”:

Lot 801, DP 881208 35 Elizabeth Street (98.35)	Anglican Cemetery
Lot 7002, DP 1052993 7 Hinton Road (99.7)	Hinton Pioneer Cemetery

[18] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Karuah**”:

Reserve No 40511 53C Tarean Road (121.53/3)	Karuah Cemetery
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[19] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Nelson Bay**”:

Reserve No 82387 41A Stockton Street (239.41/1)	Nelson Bay Cemetery
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[20] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Raymond Terrace**”:

Pt Lot 20, DP 753161 Lot 7008, DP 1051708 1A and 2 Elizabeth Avenue (283.1/1 and 283.2)	Raymond Terrace Cemetery and Pioneer Hill Cemetery
Port Stephens Street Road Reserve (Adam Place)	Ornamental planting of <i>Phoenix canariensis</i> (Canary Islands Date Palm)

[21] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Seaham**”:

Lot 2, DP 194920 110 East Seaham Road (811.110)	<i>Burrowel</i> Homestead, off Dixon Street
DP 758899 10 Grape Street (733.10)	Seaham Cemetery
Lot 1, DP 538498 1 Warren Street (366.1)	Porphyry Point site

[22] Schedule 2, Part 2

Insert in alphabetical and numerical order of street name and number under the heading “**Woodville**”:

Lot 2, DP 782062
27 Paterson Road
(604.27)

Pomfrett’s Cottage—slab cottage

[23] Schedule 2, Part 4

Omit the Part.

[24] Dictionary

Insert “native vegetation” after “clearing” in the definition of *agriculture*.

[25] Dictionary, definitions of “clearing”, “earthworks”, “potential archaeological site” and “utility undertaking”

Omit the definitions. Insert instead in alphabetical order:

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

earthworks means excavation or filling.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,

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(b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

[26] Dictionary, definition of “utility installation”

Insert “public” before “utility undertaking”.