



New South Wales

# **Lake Macquarie Local Environmental Plan 2014 (Amendment No 17)**

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*.

**BRIAN BELL, GENERAL MANAGER, LAKE MACQUARIE CITY COUNCIL**  
As delegate for the Minister for Planning

## **Lake Macquarie Local Environmental Plan 2014 (Amendment No 17)**

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### **1 Name of Plan**

This Plan is *Lake Macquarie Local Environmental Plan 2014 (Amendment No 17)*.

### **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 to which *Lake Macquarie Local Environmental Plan 2014* applies.

### **4 Maps**

The maps adopted by *Lake Macquarie Local Environmental Plan 2014* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

## **Schedule 1      Amendment of Lake Macquarie Local Environmental Plan 2014**

**[1]    Clause 1.2 Aims of plan**

Omit “Lake Macquarie City and its waterways and the coast” from clause 1.2 (2) (a).

Insert instead “Lake Macquarie and its waterways, including the coast,”.

**[2]    Clause 4.1A Exceptions to minimum subdivision lot size for certain residential development**

Omit “clause 4.1” from clause 4.1A (3). Insert instead “clauses 4.1 and 4.1AA”.

**[3]    Clause 4.2C**

Insert after clause 4.2B:

**4.2C    Boundary adjustments in certain rural and environmental protection zones**

- (1) The object of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones:
  - (a) Zone RU2 Rural Landscape,
  - (b) Zone E2 Environmental Conservation,
  - (c) Zone E3 Environmental Management,
  - (d) Zone E4 Environmental Living.
- (3) Despite clause 4.1 (3), development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that:
  - (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
  - (b) the number of dwellings on each lot after the subdivision will remain the same as before the subdivision, and
  - (c) the potential for land use conflict will not be increased as a result of the subdivision, and
  - (d) if the land is in Zone RU2 Rural Landscape—the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
  - (e) if the land is in Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living—the subdivision will result in the continued protection and long term maintenance of the land.
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
  - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
  - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the subdivision,

- (c) whether or not the subdivision is likely to be incompatible with a land use on any adjoining land,
  - (d) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (e) whether or not the subdivision is likely to have a significant adverse impact on the environmental values of the land.
- (5) This clause does not apply:
- (a) in relation to the subdivision of individual lots within a strata plan or community title scheme, or
  - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

**[4] Clause 6.5 Application of this Part**

Omit clause 6.5 (1) (u).

**[5] Clause 7.8 Airspace operations**

Omit “Belmont Airport” wherever occurring in clause 7.8 (1) and the definitions of *Limitation or Operations Surface* and *relevant Commonwealth Body* in clause 7.8 (5).

Insert instead “Lake Macquarie Airport”.

**[6] Clause 7.10 Residential development in certain business zones**

Insert “and tourist and visitor accommodation” after “residential” in clause 7.10 (1) (b).

**[7] Clause 7.10 (3)–(7)**

Omit clause 7.10 (3). Insert instead:

- (3) Development consent must not be granted to development for the purposes of a hostel, residential flat building, seniors housing or serviced apartments on land in Zone B1 Neighbourhood Centre, unless it is part of a mixed use development in which most of the ground floor of the building facing the primary street has an active street frontage and the consent authority is satisfied that it is to be used for the purposes of commercial premises or a health services facility.
- (4) Development consent must not be granted to development for the purposes of a hostel, residential flat building or seniors housing on land in Zone B2 Local Centre, unless it is part of a mixed use development in which most of the ground floor of the building facing the primary street has an active street frontage and the consent authority is satisfied that it is to be used for the purposes of commercial premises or a health services facility.
- (5) Development consent must not be granted to development for the purposes of a boarding house, hostel, residential flat building, seniors housing or serviced apartments on land in Zone B3 Commercial Core, unless it is part of a mixed use development in which most of the ground floor of the building facing the primary street has an active street frontage and the consent authority is satisfied that it is to be used for the purposes of commercial premises or a health services facility.
- (6) Development consent must not be granted to development for the purposes of a hostel, residential flat building, multi dwelling housing or serviced apartment on land in Zone B4 Mixed Use, unless it is part of a mixed use development in which all or part of the ground floor of the building facing the primary street has an active street frontage and the consent authority is

satisfied that it is to be used for the purposes of commercial premises or a health services facility.

(7) In this clause:

**active street frontage** means a street frontage that enables direct visual and physical contact between the street and the interior of the building.

**Note.** Clearly defined entrances, windows and shop fronts are elements of a building facade that contribute to an active street frontage.

**[8] Schedule 1 Additional permitted uses**

Omit clause 3 (2). Insert instead:

- (2) Development for the purposes of the erection of a dwelling house is permitted with development consent if:
  - (a) the dwelling house is to be erected to replace a dwelling house that existed on the lot immediately before the commencement of this Plan (whether or not that dwelling still exists), and
  - (b) the building envelope of the replacement dwelling does not exceed the building envelope of the dwelling house that is being replaced.
- (3) Development for the purposes of a subdivision is permitted with development consent, but only for the purposes of excising a lot for a dwelling house that existed immediately before the commencement of this Plan.

**[9] Schedule 2 Exempt development**

Insert in appropriate order:

**Advertisements—signs on field perimeter fencing and amenity facilities at sports fields in Zone RE1**

- (1) Must have the consent, in writing, of the owner of the property on which the sign is located.
- (2) Must only provide information about sponsors of teams or organisations using the sporting facility.
- (3) Must not contain direct product advertising for alcohol, tobacco products, gambling or any form of adult entertainment (being entertainment involving nudity, indecent acts or sexual activity).
- (4) Must not obstruct any gates, access points or openings.
- (5) Must face the playing area and must not be visible from outside of the site on which it is displayed.
- (6) If affixed to perimeter fencing of the playing area:
  - (a) must not extend above the top or below the bottom of the fencing, and
  - (b) have a maximum length of 6m, and
  - (c) have a maximum height of 1m.
- (7) Must be removable signs or fixings, and must not be painted directly onto the perimeter fencing or any amenity facilities.
- (8) Must not cover more than 20% of the field facing surface area of any amenity facilities.
- (9) Must not be illuminated.

(10) Must be installed in accordance with the following:

- (a) AS/NZS 1170.0—2002, *Structural design actions, Part 0: General principles*,
- (b) AS/NZS 1170.2—2011, *Structural design actions, Part 2: Wind actions*.

**[10] Schedule 5 Environmental Heritage**

Omit items 3 and 4 from Part 1.

**[11] Schedule 5, Part 1**

Insert in appropriate order:

Argenton, Teralba	Cockle Creek Railway Bridge	Adjacent to 462 Lake Road and 15C Racecourse Road	Lot 1, DP 1191714 and Part of Lot 101, DP 1188398	Local	4
Argenton, Teralba	Former Cockle Creek Railway Bridge	462 Lake Road and 13C Racecourse Road	Lot 2, DP 1191714 and Part of Lot 101, DP 1188398	Local	3
Belmont North	Nissen hut	4 Somerset Street	Lot 24, DP 28480	Local	248

**[12] Schedule 5, Part 1, item 18**

Omit “and 11”. Insert instead “and 21”.

**[13] Schedule 5, Part 1, item 18**

Omit “and 14–16, DP 848941;”.

Insert instead “, 14 and 15, DP 848941; Lot 120, DP 853391;”.

**[14] Schedule 5, Part 1, item 32**

Omit “3, 6 and 7, Section A, DP 4143”.

Insert instead “3 and 6, Section A, DP 4143; Part of Lot 1, DP 1015805”.

**[15] Schedule 5, Part 1, item 41**

Omit “14a Almora Close;”.

Insert instead “4, 6, 8, 10, 12, 14 and 14A Almora Close”.

**[16] Schedule 5, Part 1, item 41**

Omit “Camille Close and 63 Knight Street”.

Insert instead “Camille Crescent, 9 and 10 Haddington Drive, 2 Bancks Avenue, 35 Newcastle Street, 17 John Street, 63 Knight Street and 180 and 235 Macquarie Road”.

**[17] Schedule 5, Part 1, item 41**

Omit “Lots 37 and 38, DP 827464; Lot 17, DP 727746; Lot 673, DP 805546; Lot 21, DP 805655”.

Insert instead “Lot 1, DP 248465; Lot 17, DP 727746; Lot 673, DP 805546; Lot 21, DP 805655; Lots 1, 29–31, 34 and 36–38, DP 827464; Lot 81, DP 845447; SP 41083; SP 45279; SP 47822”.

**[18] Schedule 5, Part 1, item 119**

Omit “58 Dora Street”. Insert instead “87 Macquarie Street”.

**[19] Schedule 5, Part 1, item 119**

Omit “Part Lot 1, DP 1002965”. Insert instead “Part of Lot 3, DP 1002965”.