



New South Wales

Nambucca Local Environmental Plan 1995 (Amendment No 51)

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*. (G03/00230/PC)

JOHN HATZISTERGOS, M.L.C.,
Acting Minister for Planning

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Clause 1 Nambucca Local Environmental Plan 1995 (Amendment No 51)

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1 Name of plan

This plan is *Nambucca Local Environmental Plan 1995 (Amendment No 51)*.

2 Aim of plan

This plan aims to amend *Nambucca Local Environmental Plan 1995* as follows:

- (a) to include the promotion of the principles of ecologically sustainable development as a specific objective of that plan,
- (b) to define various uses and to incorporate them within the land use tables in that plan,
- (c) to introduce provisions for farm adjustment through subdivision by boundary adjustment,
- (d) to clarify the relationship between that plan and the Council's Residential Development Control Plan,
- (e) to clarify the density provisions that apply to multi-dwelling housing,
- (f) to update requirements for the development of bush fire prone land,
- (g) to require noise and vibration mitigation measures for development adjoining railways,
- (h) to correct various anomalies, inconsistencies, errors and archaisms.

3 Land to which plan applies

This plan applies to all land in the area of Nambucca.

4 Amendment of Nambucca Local Environmental Plan 1995

Nambucca Local Environmental Plan 1995 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 2 What are the objectives of this plan?

Insert before clause 2 (a):

- (a1) to promote the social and economic welfare of the community consistent with the four principles of ecologically sustainable development, which are:
 - (i) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation, and
 - (ii) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations, and
 - (iii) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration, and
 - (iv) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services,
- (a2) to promote development that is consistent with the four principles of ecologically sustainable development,

[2] Clause 2 (u)

Insert “unacceptable” after “put at”.

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

Insert in alphabetical order in clause 5 (1):

advertising structure means a structure or vessel that is principally designed for, or used for, the display of an advertisement (that is, of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions and similar matter).

airline terminal means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an airport or an aerodrome.

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boarding-house includes a house let in lodgings or a hostel but does not include a motel.

bulk store means a building or place used for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

bus depot means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

bus station means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

bush fire prone land means land recorded for the time being as bush fire prone land on the bush fire prone land map.

bush fire prone land map means the map prepared by the Council and certified under section 146 (2) of the Act by the Commissioner of the NSW Rural Fire Service.

car repair station means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery, not being:

- (a) body building, or
- (b) panel beating that involves dismantling, or
- (c) spray painting other than of a touching-up character.

child care centre means a building or place that is used (whether or not for profit) for the purpose of educating, minding or caring for children (whether or not any of the children are related to the owner or operator), but only if:

- (a) the children number 6 or more, are under 6 years of age, and do not attend a government school, or a registered non-government school, within the meaning of the *Education Act 1990*, and
- (b) the building or place does not provide residential care for any of the children (other than those related to the owner or operator).

club means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the *Registered Clubs Act 1976*.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling-house means a building containing one, but not more than one, dwelling.

earthworks means any work, other than a work the carrying out of which would be exempt or complying development, that involves:

- (a) removing soil, rubble or rock from land, or
- (b) placing soil, rubble or rock on land, or
- (c) relocating soil, rubble or rock from one point to another on land,

so that the natural ground level is altered by more than 50 centimetres at any point on the land, but excluding any works required for agriculture, landscaping and domestic gardening.

educational establishment means a building used as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.

extractive material means sand, gravel, clay, turf, soil, rock, stone or any similar substance.

filling of land means earthworks carried out with the intention of raising the natural ground level of the land.

floor means that space within a building that is situated between one floor level and the floor level next above or, if there is no floor above, the ceiling or roof above.

forestry includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation, otherwise than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

general store means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office.

generating works means a building or place used for the purposes of making or generating gas, electricity or other forms of energy.

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 1400 millimetres above each floor level excluding:

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and

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- (b) lift towers, cooling towers, machinery and plant rooms and 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 that car parking, and
- (d) space for the loading and unloading of goods.

group home has the same meaning as in *State Environmental Planning Policy No 9—Group Homes*.

health care professional means a person who provides professional health services to members of the public, and includes:

- (a) a podiatrist registered under the *Podiatrists Act 2003*, and
- (b) a chiropractor registered under the *Chiropractors Act 2001*, and
- (c) an optometrist registered under the *Optometrists Act 2002*, and
- (d) an osteopath registered under the *Osteopaths Act 2001*, and
- (e) a physiotherapist registered under the *Physiotherapists Act 2001*, and
- (f) a practitioner of an alternative health therapy, such as acupuncture, aromatherapy, homeopathy, kinesiology, naturopathy, remedial massage and similar therapies.

helipad means an area or place not open to public use that is authorised by the Commonwealth Department of Transport and that is set apart for the taking off and landing of helicopters.

heliport means an area or place open to public use that is licensed by the Commonwealth Department of Transport for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

home occupation means an occupation carried on in a dwelling house or in a dwelling in a residential flat building by the permanent residents of the dwelling house or dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or

- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling house or dwelling to indicate the name and occupation of the resident), or
- (e) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

hotel means the premises to which an hotelier's licence granted under the *Liquor Act 1982* relates.

institution means a correctional centre or a reform establishment.

landfill has the same meaning as **filling of land**.

liquid fuel depot means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or any other inflammable liquid.

major road frontage in relation to land, means the frontage of that land to:

- (a) a classified road, or
- (b) a road connecting with a classified road, if the whole or any part of the frontage is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the classified road.

medical centre means a suite of rooms or a building used by:

- (a) registered medical practitioners, or
- (b) dentists within the meaning of the *Dental Practice Act 2001*, or
- (c) health care professionals,

and their support staff, for the purpose of medicine, dentistry or health care, not being a hospital or professional consulting rooms.

mineral sand mine means a mine for or in connection with the purpose of obtaining ilmenite, monazite, rutile, zircon or similar minerals.

motor showroom means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed at the building or place.

multi-dwelling housing means three or more dwellings located on one allotment, whether or not contained within one building, but does not include integrated housing.

offensive or hazardous industry means an industry that, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

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parking space includes any garage or court available for use by vehicles.

place of assembly means a public hall, theatre, cinema, music hall, concert hall, dance hall, open air theatre, music bowl or any other building of a similar character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

professional consulting rooms means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of a dwelling house and used by:

- (a) not more than three registered medical practitioners, or
- (b) not more than three registered dentists within the meaning of the *Dental Practice Act 2001*, or
- (c) not more than three health care professionals,

who practise in that room or rooms the profession of medicine, dentistry or health care respectively, and if more than one, practise in partnership, and who employ not more than three employees in connection with that practice.

public building means a building used as offices or for administrative or other similar purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

recreation establishment means a health farm, religious retreat house, rest home, youth camp or similar facility, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a land use elsewhere specifically defined in this clause.

recreation facility means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a similar character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

recycling depot means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles, or other scrap materials or goods or used for the collecting, dismantling, storing, salvaging or abandoning of motor vehicles or other vehicles or machinery or for the sale of their parts.

refreshment room means a restaurant, cafe, tea room, eating house or similar facility.

retail plant nursery means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are sold in the building or place.

road transport terminal means a building or place used principally for the bulk handling of goods for transport by road, and includes facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

rural worker's dwelling means a dwelling that is on land upon which there is already erected a dwelling and that is occupied by persons engaged in rural occupation on that land.

sawmill means a mill handling, cutting and processing timber from logs or baulks.

site area means the area of land to which an application for consent under the Act relates, excluding any land upon which the development to which the application relates is not permitted under this plan.

stock and sale yard means a building or place used for the purpose of offering animals for sale and includes a public cattle market.

the Act means the *Environmental Planning and Assessment Act 1979*.

warehouse means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

[4] Clause 5 (1), definition of "agriculture"

Omit the definition. Insert instead:

agriculture means:

- (a) the cultivation of crops, or
- (b) the keeping or breeding of livestock, bees, poultry or other birds, or
- (c) the cultivation of plants in a wholesale plant nursery, for commercial purposes.

[5] Clause 5 (1), definitions of "cluster housing", "material recycling depot", "medium density housing" and "residential flat building"

Omit the definitions.

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[6] Clause 5 (1), definition of “community centre”

Omit “owned, leased or sub-leased by the Council and”.

[7] Clause 5 (1), definition of “housing for aged or disabled persons”

Omit the definition. Insert instead:

housing for aged or disabled persons has the same meaning as *seniors housing* under *State Environmental Planning Policy (Seniors Living) 2004*.

[8] Clause 5 (1), definition of “tourist accommodation”

Insert “or group of buildings” after “building”.

[9] Clause 6 What model provisions does this plan adopt?

Omit clause 6 (1) (a).

[10] Clause 6 (1) (b)

Insert “4 (1),” after “clauses”.

[11] Clause 9A

Insert after clause 9:

9A What uses are permissible on unzoned land?

- (1) A person must not carry out development on unzoned land without the consent of the consent authority.
- (2) The consent authority may grant consent required by subclause (1) only for development that may be carried out with or without the consent of the consent authority on land immediately adjoining that unzoned land that is within a zone identified on the map.
- (3) In this clause:
unzoned land means land that is not identified on the map as being within a zone.

[12] Clause 11 What rural and environmental zones apply in this plan?

Omit Item 1 of the matter relating to Zone 1 (a1) in the development control table to the clause.

Insert instead:

1 Objectives of Zone

The specific objectives for that part of the zone not designated for rural-residential development are:

- (a) to encourage the productive and efficient use of land for agriculture, and
- (b) to protect commercial agricultural enterprises, and
- (c) to permit appropriate agriculture-related land uses, and certain non agriculture-related land uses, that will not adversely affect agricultural productivity.

The specific objectives for that part of the zone designated for rural-residential development are:

- (a) to provide for small holding rural-residential living opportunities where appropriately located, and
- (b) to control the density of rural-residential development and to ensure proper regard is given to suitable siting in regard to access, natural hazards, landscape quality and physical environment.

The general objectives for the entire zone are:

- (a) to protect, conserve and enhance natural and scenic resources and wildlife habitat refuges and corridors, and
- (b) to control development that could:
 - (i) have an adverse impact on rural character, or
 - (ii) create unreasonable or uneconomic demands for the provision or extension of public amenities and services, or
 - (iii) cause adverse physical effects such as erosion hazard, bush fire risk, flooding and other similar effects.

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[13] Clause 11, development control table

Omit “a broken” wherever occurring from Item 5 of the matter relating to Zone 1 (a1).

Insert instead “an indicative broken”.

[14] Clause 11, development control table

Omit “cluster housing;”, “medium density housing;” and “residential flat buildings;” from the first paragraph of Item 5 of the matter relating to Zone 1 (a1).

[15] Clause 11, development control table

Insert “medical centres;” after “liquid fuel depots;” in the first paragraph of Item 5 of the matter relating to Zone 1 (a1).

[16] Clause 11, development control table

Insert “multi-dwelling housing;” after “motor showrooms;” in the first paragraph of Item 5 of the matter relating to Zone 1 (a1).

[17] Clause 11, development control table

Omit “junkyards;” from the second paragraph of Item 5 of the matter relating to Zone 1 (a1).

[18] Clause 11, development control table

Omit “materials recycling depots; mines; medium density housing;” from the second paragraph of Item 5 of the matter relating to Zone 1 (a1).

Insert instead “medical centres; mines;”.

[19] Clause 11, development control table

Insert “multi-dwelling housing;” after “motor showrooms;” in the second paragraph of Item 5 of the matter relating to Zone 1 (a1).

[20] Clause 11, development control table

Insert “recycling depots;” after “recreation vehicle areas;” in the second paragraph of Item 5 of the matter relating to Zone 1 (a1).

[21] Clause 11, development control table

Omit “residential flat buildings;” from the second paragraph of Item 5 of the matter relating to Zone 1 (a1).

[22] Clause 11, development control table

Omit “cluster housing;”, “junkyards;”, “material recycling depots;”, “medium density housing;” and “residential flat buildings;” wherever occurring from Item 5 of the matter relating to Zones 1 (a2), 1 (a3), 1 (a4) and 1 (d).

[23] Clause 11, development control table

Insert “medical centres;” after “liquid fuel depots;” wherever occurring in Item 5 of the matter relating to Zones 1 (a2), 1 (a3), 1 (a4) and 1 (d).

[24] Clause 11, development control table

Insert “multi-dwelling housing;” after “motor showrooms;” wherever occurring in Item 5 of the matter relating to Zones 1 (a2), 1 (a3), 1 (a4) and 1 (d).

[25] Clause 11, development control table

Insert “recycling depots;” after “recreation vehicle areas;” wherever occurring in Item 5 of the matter relating to Zones 1 (a2), 1 (a3), 1 (a4) and 1 (d).

[26] Clause 11, development control table

Omit “for future urban release at Macksville, Nambucca Heads, Valla Beach and Scotts Head” from item 2 of the matter relating to Zone 1 (d).

Insert instead “identified for future urban development”.

[27] Clause 12 What controls apply to subdivision of land in rural and environmental zones?

Omit “20ha” from the matter relating to Zone 1 (d) in the Table to clause 12 (1).

Insert instead “40ha”.

[28] Clause 12 (2) (b)

Omit “broken black edging”. Insert instead “an indicative broken black line”.

[29] Clause 12 (2) (c)

Omit “that is used for a purpose allowed by the zoning of the lot”.

[30] Clause 12 (2) (e)

Insert at the end of clause 12 (2) (d):

, or

(e) in accordance with clause 12A.

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[31] Clause 12A

Insert after clause 12:

12A What criteria apply to subdivision for farm adjustment?

- (1) This clause applies to land in Zone 1 (a1), 1 (a2), 1 (a3), 1 (a4), 1 (d), 7 (a), 7 (b), 7 (f) or 7 (g).
- (2) The aim of this clause is to provide flexibility in the application of standards for subdivision in rural and environmental protection zones, in order to allow landowners greater opportunities to achieve the objectives of the zones.
- (3) Despite clause 12 (1), the Council may consent to the subdivision of land by way of boundary adjustment between two adjoining allotments, providing:
 - (a) that subdivision will not result in a net increase in the number of lots, or dwelling entitlements, as permitted under clause 14, and
 - (b) if, before the boundary adjustment, there are no dwellings and no dwelling entitlements on one lot, then the result of the boundary adjustment must be that there are no dwellings or dwelling entitlements on one lot, and
 - (c) the net outcome of the subdivision is likely to assist in achievement of the objectives of the relevant zone, and
 - (d) the subdivision design will not establish a situation where the relative position of the existing or proposed improvements and rural activities on the new lots is likely to result in conflict.
- (4) An allotment created under subclause (3) may not be re-subdivided, except under this clause or clause 12.
- (5) In this clause, *dwelling entitlement* means a legal right to erect a dwelling upon an allotment.

[32] Clause 13 What general considerations apply to development?

Omit “broken black edging” from clause 13 (1).

Insert instead “the indicative broken black line”.

[33] Clause 14 What controls apply to the erection of dwelling-houses in rural zones?

Omit “20ha” from clause 14 (1) (a). Insert instead “40 hectares”.

[34] Clause 14 (1) (b)

Omit “broken black edging”. Insert instead “indicative broken black line”.

[35] Clause 14 (1) (d)

Omit the paragraph. Insert instead:

- (d) the land comprises an allotment created by a subdivision in accordance with clause 12 or 12A, including where consent was granted pursuant to *State Environmental Planning Policy No 1—Development Standards*, or

[36] Clause 14 (1) (e2)–(e4)

Insert after clause 14 (1) (e1):

- (e2) the land comprises an allotment resulting from a boundary adjustment consented to under this plan or an allotment resulting from a boundary adjustment defined as complying development under this plan, but only where a dwelling may have legally been erected prior to the boundary adjustment, or
- (e3) the land comprises an allotment resulting from a subdivision for road widening, but only where a dwelling may have legally been erected prior to the subdivision, or
- (e4) the land comprises an allotment resulting from a subdivision for resumption for a public purpose, but only where a dwelling may have legally been erected prior to the subdivision, or

[37] Clause 14 (4)

Insert “or destroyed by a fire, a flood or a similar natural event” after “demolished”.

[38] Clause 16 What controls apply to rural-residential development?

Insert “indicative” before “broken” in clause 16 (1).

[39] Clause 16 (5)

Omit the subclause.

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[40] Clause 20 What controls apply to development in the coastal protection zone?

Omit clause 20 (2). Insert instead:

- (2) The Council must not grant consent to development on land within Zone 7 (f):
 - (a) that is likely to be inundated, and
 - (b) that is indicated as a coastal hazard area by black cross hatching on the map,except with the concurrence of the Director-General.

[41] Clause 20 (3)

Omit "Director". Insert instead "Director-General".

[42] Clause 21

Omit the clause. Insert instead:

21 Who must be consulted about proposed development in the coastal hazard area?

The Council must not grant consent to development within the coastal hazard area indicated by black cross hatching as shown on the map unless it has notified the Director-General of the Department of Natural Resources and taken into consideration any representations made to it by that Director-General within 30 days after sending the notice.

[43] Clause 22 What provisions apply to dwelling-houses fronting unformed or unmade roads?

Omit the clause.

[44] Clause 25 What residential zones apply in this plan?

Omit "junkyards;" and "materials recycling depots;" wherever occurring from Item 5 of the matter relating to Zones 2 (a), 2 (b), 2 (c) and 2 (d) in the development control table to the clause.

[45] Clause 25, development control table

Omit "manufactured home estates;" from Item 5 of the matter relating to Zones 2 (a), 2 (b) and 2 (d).

[46] Clause 25, development control table

Insert "recycling depots;" after "recreation vehicle areas;" in Item 5 of the matter relating to Zones 2 (a), 2 (b), 2 (c), 2 (d) and 2 (v).

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- [47] **Clause 25, development control table**
Insert “rural industries;” after “roadside stalls;” in Item 5 of the matter relating to Zones 2 (a), 2 (b), 2 (c), and 2 (d).
- [48] **Clause 25, development control table**
Omit “cluster housing;”, “medium density housing;” and “residential flat buildings;” from Item 5 of the matter relating to Zone 2 (c).
- [49] **Clause 25, development control table**
Insert “Exempt development.” as a new paragraph at the end of Item 3 of the matter relating to Zone 2 (c).
- [50] **Clause 25, development control table**
Insert “multi-dwelling housing;” after “motor showrooms;” in Item 5 of the matter relating to Zone 2 (c).
- [51] **Clause 25, development control table**
Omit “motels;” where secondly occurring in Item 5 of the matter relating to Zone 2 (c).
- [52] **Clause 25, development control table**
Insert “rural industries;” after “restricted premises;” in Item 5 of the matter relating to Zone 2 (v).
- [53] **Clause 26 What controls apply to residential subdivisions?**
Insert “or clause 30A” after “clause 27” in clause 26 (1).
- [54] **Clause 26 (1)**
Insert “, exclusive of any access handle in the case of hatchet-shaped allotments” after “metres”.
- [55] **Clause 29 What site area requirements apply in residential zones for multi-dwelling housing?**
Omit “dwelling-house” from clause 29 (1). Insert instead “dwelling”.
- [56] **Clause 29 (1), Table**
Omit “**Residential flat buildings, medium density housing**” from the Table to clause 29 (1).
Insert instead “**Multi-dwelling housing**”.
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[57] Clause 29 (1), Table

Omit the matter relating to “**Cluster housing**”.

[58] Clause 30 What specific controls apply for erection of dwelling-houses at Valla Beach?

Omit the clause.

[59] Clause 30A

Omit the clause. Insert instead:

30A What controls apply to dual occupancy development?

- (1) Land within Zone 2 (a), 2 (b), 2 (d) or 2 (v) may be developed for a dual occupancy if the area of the land is:
 - (a) at least 450 square metres for two attached dwellings, or
 - (b) at least 600 square metres for two detached dwellings.
- (2) Land within Zone 2 (a), 2 (b), 2 (d) or 2 (v) may be subdivided to create separate land titles for each of the two dwellings that have been or will be created by dual occupancy development, regardless of any other provision of this plan, but only if:
 - (a) the consent authority has granted consent for the subdivision, and
 - (b) the dwellings are connected to the Council’s sewerage system or the Council is satisfied that the system is available for connection and that the dwellings will be connected to it, and
 - (c) in the case of two attached dwellings, the area of the land to be subdivided is at least 450 square metres, and
 - (d) in the case of two detached dwellings, the area of the land to be subdivided is at least 600 square metres.
- (3) The consent authority must not grant consent to such a subdivision unless the consent relates to land on which the dual occupancy development has been carried out or to land in respect of which the consent authority grants consent at the same time for the dual occupancy development.

[60] Clause 31 What business zones apply in this plan?

Omit “camp or caravan sites;” from Item 5 of the matter relating to Zone 3 (a) in the development control table to the clause.

Insert instead “camping grounds; caravan parks;”.

[61] Clause 31, development control table

Omit “cluster housing;”, “junkyards;”, “materials recycling depots;” and “residential flat buildings (other than those used in conjunction with another land use which is not prohibited);” from Item 5 of the matter relating to Zone 3 (a).

[62] Clause 31, development control table

Insert “multi-dwelling housing (other than those used in conjunction with another land use that is not prohibited);” after “mining” in Item 5 of the matter relating to Zone 3 (a).

[63] Clause 31, development control table

Insert “recycling depots;” after “offensive or hazardous industries;” in Item 5 of the matter relating to Zone 3 (a).

[64] Clause 31, development control table

Insert “rural industries;” after “roadside stalls;” in Item 5 of the matter relating to Zone 3 (a).

[65] Clause 33 What industrial zones apply in this plan?

Omit “cluster housing;”, “medium density housing;” and “residential flat buildings;” wherever occurring from Item 5 of the matter relating to Zones 4 (a) and 4 (b) in the development control table to the clause.

[66] Clause 33, development control table

Omit “dwelling-houses” wherever occurring from Item 5 of the matter relating to Zones 4 (a) and 4 (b).

Insert instead “dwellings”.

[67] Clause 33, development control table

Insert “medical centres;” before “mining;” wherever occurring in Item 5 of the matter relating to Zones 4 (a) and 4 (b).

[68] Clause 33, development control table

Insert “multi-dwelling housing;” after “motels;” wherever occurring in Item 5 of the matter relating to Zones 4 (a) and 4 (b).

[69] Clause 33, development control table

Omit “junkyards;” from Item 5 of the matter relating to Zone 4 (b).

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[70] Clause 36 What open space zones apply in this plan?

Omit “community facilities” from Item 4 of the matter relating to Zone 6 (a) in the development control table to the clause.

Insert instead “community centres”.

[71] Clause 36, development control table

Insert “earthworks;” before “educational establishments;” wherever occurring in Item 4 of the matter relating to Zones 6 (a) and 6 (c).

[72] Clause 36, development control table

Insert “community centres;” after “communication facilities;” in Item 4 of the matter relating to Zone 6 (c).

[73] Clause 40 What tourist zone applies in this plan?

Omit “south of Teague Creek, Lower Nambucca” from Item 2 of the matter relating to Zone 10 in the development control table to the clause.

Insert instead “on the fringe of urban areas, that is of high environmental quality and readily accessible from the regional road network”.

[74] Clause 40, development control table

Omit “residential flat buildings and medium density housing associated another land use permitted within this zone;” from Item 4 of the matter relating to Zone 10.

[75] Clause 40, development control table

Insert “earthworks;” before “general stores” in Item 4 of the matter relating to Zone 10.

[76] Clause 40, development control table

Insert “multi-dwelling housing associated with another land use permitted within this zone;” after “motels;” in Item 4 of the matter relating to Zone 10.

[77] Clause 44 Are heritage applications advertised?

Omit “Sections 84, 85, 86, 87 (1) and 90” from clause 44 (1).

Insert instead “Sections 79, 79A and 79C”.

[78] Clause 48

Omit the clause. Insert instead:

48 What restrictions apply to the development of land subject to bush fire hazards?

In deciding whether to grant consent to any development on bush fire prone land, the Council:

- (a) must have regard to the relevant provisions of the *Rural Fires Act 1997*, the *Environmental Planning and Assessment Act 1979* and the document entitled *Planning for Bushfire Protection* published by the NSW Rural Fire Service in collaboration with Planning NSW in December 2001, or such Acts, regulations or documents as may replace these, and be satisfied that the relevant provisions have been complied with, and
- (b) must consider whether the measures adopted to avoid or mitigate the threat from bush fire are adequate for the locality, having regard to:
 - (i) the siting of development, and
 - (ii) the design and construction of structures, and
 - (iii) the clearing of vegetation, and
 - (iv) the provision of Asset Protection Zones, and
 - (v) the provision of landscaping and fire control aids, such as roads and water supplies, and
- (c) must consider the potential environmental impacts of measures proposed to avoid or mitigate the threat from bush fire.

[79] Clause 49 What restrictions apply to development of flood prone land?

Omit clause 49 (4). Insert instead:

- (4) The Council may consent to the erection of a building on flood liable land only if the Council is satisfied that, in addition to the matters contained in subclause (3), the proposed building complies with the requirements of Table A1 of the *Nambucca Shire Council Floodplain Risk Management Plan February 2005*.

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[80] Clause 49 (7)

Omit the subclause. Insert instead:

- (7) In considering any application for development consent relating to flood liable land, the Council must have regard to:
 - (a) the principles and guidelines contained in the New South Wales Government's *Floodplain Development Manual April 2005*, and
 - (b) the *Nambucca Shire Council Floodplain Risk Management Plan February 2005*.

[81] Clause 49 (8)

Omit the subclause.

[82] Clause 52, heading

Omit “, being roads, drainage, recreation areas, car parking etc”.

Insert instead “and facilities”.

[83] Clause 55 What general provisions apply to advertising?

Omit clauses 55 (1) and (3).

[84] Clause 59 What restrictions apply to development on State or regional roads?

Omit “classified road” wherever occurring.

Insert instead “State or regional road”.

[85] Clause 67

Insert after clause 66:

67 What restrictions apply to development adjoining railways?

The Council must not consent to any proposed development adversely impacted upon by railway-related noise and vibration, unless the development incorporates mitigation measures to the satisfaction of the Council.

[86] Schedule 1 Considerations for rural-residential subdivisions

Omit “a report and maps prepared by the Department of Conservation and Land Management entitled ‘Urban and Rural Residential Capability Survey of the Nambucca Shire—May 1992’” from paragraph (e).

Insert instead “the map entitled ‘Department of Land and Water Conservation Urban Land Capability Map (2000)’”.

[87] Schedule 3 Heritage items

Omit “Corner of Cooper and Wallace Streets” from the matter relating to “**Nambucca Hotel**”.

Insert instead “2–4 Wallace Street”.

[88] Schedule 3

Insert “15–17” before “River Street” in the matter relating to The Star Hotel in Macksville.

[89] Schedule 5

Omit the Schedule. Insert instead:

Schedule 5 Additional uses of land

(Clause 51)

Bowraville

Lots 48 and 99, DP 755537, South Arm Road and Adam Lane, Bowraville—recreation and bowling club; golf course; pre-school.

Lower Nambucca

Lot 3, DP 842158 and Lot 9, DP 749152, Pacific Highway, Lower Nambucca—motor showroom.

Lot 3, DP 842158 and Lot 9, DP 749152, Pacific Highway, Lower Nambucca—car repair station.

Macksville

Lots 1, 2 and 3, DP 32178, Pacific Highway, Macksville—the erection of a single dwelling-house on the combined area.

Lots 11, 12 and 18, DP 245262, Nursery Road, Macksville—camping ground and caravan park.

Lot 2, DP 245263, Nursery Road, Macksville—motor showroom (for commercial trucks) as per amended *Drawing No DA01A*, Diagram 3, dated 18 July 1994, prepared by Gutteridge Haskins and Davey Pty Ltd, Consulting Engineers and Environmental Planners, deposited in the office of the Council.

Lot 6, DP 245595 and Lot 53, DP 825987, Gumma Road, Macksville—industrial shed for the fabrication of water tanks.

Lot 2, DP 538542, River Street, Macksville—aquaculture.

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Nambucca Heads

White Albatross Caravan Park, Nambucca Heads (being the land identified as such by a plan Catalogue No MS 4624, a copy of which is deposited in the office of the Council)—conversion of existing dwelling-house into two storey multi-dwelling housing.

Crown land, Part Section 53 (excluding Allotments 1 and 2), Liston and Pilot Streets, Nambucca Heads—tourist accommodation; recreation establishments; recreation facilities and refreshment rooms (but only in conjunction with tourist accommodation or multi-dwelling housing).

Lot 72, DP 561932, Pacific Highway, Nambucca Heads—erection of motel and ancillary uses subject to compliance with the State Government's *Flood Plain Development Manual* published in 1986, a copy of which is deposited in the office of the Council.

Crown land, Lot 1, DP 822827 being part of R63811 (Headland Reserve), Nambucca Heads on which the Headland Caravan Park is situated—caravan park; camping ground; holiday cabins; refreshment rooms.

Lot 26, DP 790194, Faringdon Way and Part Lot 77, DP 832082, containing an area 14.77ha fronting Bellwood Road, Nambucca Heads—multi-dwelling housing at the ratio of one dwelling-house per 230m² of site area and the development of a manufactured home estate pursuant to *State Environmental Planning Policy No 36—Manufactured Home Estates*.

Lot 7, DP 791609, Marshall Way, Nambucca Heads—commercial premises.

Taylors Arm

Lot 1, DP 211284, Greenhills Road, Upper Taylors Arm Village—intensive livestock keeping (rabbit farming).

BY AUTHORITY
