

North Coast Regional Environmental Plan (1988 EPI 51)

[1988-51]



New South Wales

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New South Wales

Contents

Part 1 Preliminary	7
1 Name of plan	7
2 Aims	7
2A Effect of aims and objectives of this plan on local environmental plan preparation.....	8
2B Effect of aims and objectives of this plan on determination of development applications.....	8
3 Land to which plan applies	8
4 Relationship to other environmental planning instruments.....	8
5 Definitions	9
Part 2 Rural development	12
Division 1 Agricultural resources	12
6 Objectives.....	12
7 Plan preparation—prime crop or pasture land	12
8 Plan preparation—minimum lot size.....	13
9 Plan preparation—concessional lots	13
10 Plan preparation—cluster farming	13
11 Plan preparation—intensive animal industries	13
12 Development control—impact of development on agricultural activities	13
Division 2 Catchment management	13
13 Objectives.....	13
14 Plan preparation—wetlands or fishery habitats	13

15 Development control—wetlands or fishery habitats	14
Division 3 Geological resources	15
16 Objectives.....	15
17 Plan preparation—extractive materials	15
18 Development control—extractive industry	15
18A Development control—mineral sands mining	15
Division 4 Rural housing	16
19 Objective	16
20 Plan preparation—rural land release strategy	16
21 Plan preparation—dwellings on rural land	17
22 Plan preparation—dual occupancy	17
23 (Repealed)	18
Division 5 Forestry	18
24 Objectives.....	18
25 Plan preparation—state forests	18
26 Plan preparation—areas other than state forests	18
27 Plan preparation—timber processing plants	18
Part 3 Conservation and the environment	18
Division 1 The natural environment	18
28 Objectives.....	18
29 Plan preparation—natural areas and water catchments.....	19
29A Development control—natural areas and water catchment	19
Division 2 Coastal development	20
30 Objectives.....	20
31 Plan preparation—coastal hazard areas	20
32 Plan preparation—coastal foreshore areas	20
32A Plan preparation—coastal lands	21
32B Development control—coastal lands	21
33 Development control—coastal hazard areas	22

Division 3 Heritage	22
34 Objectives.....	22
35 Plan preparation—conservation areas of State and regional significance	22
36 Development control—heritage items, generally	23
36A Development control—heritage items of State and regional significance	23
36B Development control—heritage items of regional significance	24
36C Development control—conservation areas of State and regional significance	24
36D Development control—advertising of heritage applications.....	25
36E Conservation incentive relating to heritage items.....	25
36F Development in the vicinity of heritage items.....	25
Part 4 Urban development	26
Division 1 Strategic planning	26
37 Objectives.....	26
38 Plan preparation—urban land release strategy	26
39 Plan preparation—retail, commercial or business activities	27
40 Plan preparation—principles for urban zones	27
Division 2 Urban housing	27
41 Objectives.....	27
42 Plan preparation—principles for housing	28
43 Development control—residential development.....	28
Division 3 Environmental hazards	29
44 Objectives.....	29
45 Plan preparation—hazards.....	29
45A Plan preparation—flood liable land.....	30
Division 4 Commercial and industrial development	31
46 Objectives.....	31
47 Plan preparation and development control—principles for commercial and industrial development	31
48 Plan preparation—maintenance of industrial development zonings.....	31

Division 5 Tall buildings	32
49 Objectives.....	32
50 Plan preparation—height controls	32
51 Development control—Director’s concurrence for tall buildings.....	32
Part 5 Regional infrastructure	32
Division 1 Transport	32
52 Objectives.....	32
53 Plan preparation—primary arterial roads.....	33
54 Plan preparation—secondary arterial roads.....	33
55 Plan preparation—existing controls for main or arterial roads.....	33
55A Plan preparation—development of new airports	33
56 Plan preparation—land in the vicinity of aerodromes	34
56A Plan preparation—bus services	34
Division 2 Utility services	35
57 Objectives.....	35
58 Plan preparation—servicing urban areas	35
59 (Repealed)	35
Division 3 Health and education	35
60 Objectives.....	35
61 Plan preparation—health and education facilities	35
62 (Repealed)	36
63 Plan preparation—community use of schools and other facilities.....	36
Division 4 Community services	36
64 Objectives.....	36
65 Plan preparation—provision of community, welfare and child care services	36
66 Development control—adequacy of community and welfare services	37
Part 6 Tourism and recreation	37
Division 1 Tourism	37
67 Objectives.....	37

68 Definitions	37
69 Plan preparation—environmental features and hazards	37
70 Plan preparation—principles for location of tourism development	38
71 Plan preparation—provision of services to tourism development.....	38
72 Plan preparation—large scale resort development.....	38
73 Plan preparation—residential development and tourism.....	39
74 Plan preparation—tourism development on farms	39
75 Development control—tourism development	39
76 Development control—natural tourism areas	40
Division 2 Recreation	40
77 Objectives.....	40
78 Plan preparation—public recreation areas	40
79 Plan preparation—recreation vehicle areas	41
80 Plan preparation—existing zones for public open space.....	41
81 Development control—development adjacent to the ocean or a waterway	42
82 Development control—sporting fields or specialised recreation facilities	42
Part 7 Miscellaneous	42
83 Plan preparation—miscellaneous provisions.....	42
Schedule 1 Conservation areas	43
Schedule 2 Heritage items of State and regional environmental significance	43
Schedule 3 Heritage items of regional environmental significance	47

North Coast Regional Environmental Plan (1988 EPI 51)



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *North Coast Regional Environmental Plan*.

2 Aims

(1) The aims of this plan are:

- (a) to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future,
- (b) to consolidate and amend various existing policies applying to the region, make them more appropriate to regional needs and place them in an overall context of regional policy,
- (c) to provide a basis for the co-ordination of activities related to growth in the region and encourage optimum economic and social benefit to the local community and visitors to the region, and
- (d) to initiate a regional planning process that will serve as a framework for identifying priorities for further investigation to be carried out by the Department and other agencies.

(2) The aims will be implemented in this plan by:

- (a) specifying objectives for the future planning and development of land within the region,
- (b) specifying regional policies to guide the preparation of local environmental plans within the region, and
- (c) specifying regional policies for the control of development in the region.

2A Effect of aims and objectives of this plan on local environmental plan preparation

- (1) This clause applies to a council when deciding whether or not to prepare a draft local environmental plan applying to a part of the region and when preparing any such plan.
- (2) When this clause applies, the council should take into consideration such of the aims and objectives of this plan as are relevant to the making of its decision.

2B Effect of aims and objectives of this plan on determination of development applications

- (1) This clause applies:
 - (a) to a consent authority when determining an application for development consent for the carrying out of development on or in relation to land within the region, and
 - (b) to the Minister or a public authority when determining whether or not to grant concurrence to the granting of such a consent.
- (2) When this clause applies, the consent authority, Minister or public authority must take into consideration such of the aims and objectives of this plan as are relevant to the making of its determination.

3 Land to which plan applies

This plan applies to the local government areas of Ballina, Bellingen, Byron, Casino, Coffs Harbour, Copmanhurst, Grafton, Hastings, Kempsey, Kyogle, Lismore, Maclean, Nambucca, Nymboida, Richmond River, Tweed and Ulmarra declared by the Minister under section 4 (6) of the Act to be a region, known as the North Coast and shown edged heavy black on the map.

4 Relationship to other environmental planning instruments

- (1) Subject to section 74 (1) of the Act, in the event of any inconsistency between this plan and any other environmental planning instrument (other than a State environmental planning policy) applying to the land to which this plan applies, this plan shall, to the extent of the inconsistency, prevail.
- (2) Except as provided by clause 36E, nothing in this plan authorises the carrying out, on land, of development that is prohibited under another environmental planning instrument applying to the same land.
- (3) Nothing in this plan prevents failure to comply with a requirement made by this plan that is not mandatory from being an inconsistency for the purposes of section 68 (4) (d) (iii) of the Act.

5 Definitions

(1) In this plan:

agricultural protection zone means a rural zone containing predominantly prime crop or pasture land and which may include land sufficient to separate development for agricultural purposes from other land uses.

alteration, in relation to a heritage item that is a building, means:

- (a) the making of structural changes to the outside of the heritage item, or
- (b) the making of non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item other than non-structural changes due to the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item.

back beach erosion scarp means the identifiable landward limit of wave attack during severe storm events.

child care centre means a building or place used or intended for use for the purpose of minding or caring (without provision for residential care) for 2 or more children under the age of 6 years, not related to the person so using that building or place.

Coastline Management Manual means the Government publication with that title published in 1990.

commercial farming means the use of an area of land predominantly for an efficient sustainable agricultural purpose.

conservation includes preservation, protection, restoration and enhancement.

conservation area means an area specified or described in Schedule 1.

conservation plan means a document resulting from a detailed assessment of the elements of a site to establish its heritage significance and indicating policies to enable that significance to be retained in its future use and development.

cluster farming means the commercial farming by a group of owners where the major agricultural activity is managed in common.

council, in relation to a local government area within the region, means the council administratively responsible for that area.

demolition, in relation to a heritage item, means the damaging, defacing, destruction, pulling down or removal of the heritage item, in whole or in part.

dual occupancy means the creation of not more than two dwellings (whether or not attached) on one lot within an urban zone, or of not more than two attached dwellings

on one lot in a rural or environmental protection zone.

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.

extractive industry means an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on.

extractive material means sand, gravel, soil, rock, stone and similar substances, whether valuable for the minerals they contain or otherwise.

Floodplain Development Manual means the Government publication with that title published in 1986.

height, in relation to a building, means the greatest distance measured vertically from any point on the building to the natural ground level immediately below that point.

heritage item means a building, work, relic, tree or place of heritage significance to the North Coast Region specified or described in Schedule 2 or 3.

heritage significance means historic, scientific, cultural, social, archaeological, architectural or aesthetic significance.

industry means:

- (a) any manufacturing process within the meaning of the [Factories, Shops and Industries Act 1962](#),
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business, or
- (c) the winning of extractive material.

intensive animal industry means establishments in which large numbers of animals are housed, fed or slaughtered and includes abattoirs, cattle feed lots or intensive piggeries.

mineral has the same meaning as in the [Mining Act 1992](#), but does not include any extractive material.

natural ground level means the level of site as if the land comprising the site were undeveloped.

North Coast: Design Guidelines means the Government publication with that title published in 1989.

North Coast Region Tourism Development Strategy means the Government

publication with that title published in 1987.

NSW Coastal Policy 1997 means the Government publication with that title published in 1997.

primary arterial road means major highly trafficked roads connecting regions within and outside the State.

prime crop or pasture land means rural land identified by the Director-General of Agriculture as comprising Classes 1, 2 or 3 of a classification set out in the “Rural Land Evaluation Manual” available from the Department of Agriculture, or other land identified by that Director-General as having agricultural significance.

region means the land referred to in clause 3.

relic means any deposit, object or material evidence relating to the use or settlement of the land to which this plan applies and which is 50 or more years old.

rural land means land other than land within an urban zone, an environmental protection, a national park or a nature reserve zone, or a forestry zone, in each case within the meaning of an environmental planning instrument.

secondary arterial road means highly trafficked roads other than primary arterial roads connecting regions and significant centres.

the Conservation Area map means the map marked “North Coast Regional Environmental Plan—Conservation Areas” deposited in the North Coast office of the Department of Urban Affairs and Planning.

the map means the map marked “North Coast Regional Environmental Plan 1988” deposited in the office of the Department of Planning and catalogued 020 999 84 001.

Tourism Development Along the New South Wales Coast: Guidelines means the Government publication with that title published in 1992.

Tourism Development Near Natural Areas: Guidelines for the North Coast means the Government publication with that title published in 1990.

wetland means an area of land subject to permanent or periodic inundation and substantially retaining a cover of natural vegetation which generally displays hydrophytic characteristics.

- (2) A copy of any of the publications referred to in subclause (1) may be inspected by any person during ordinary office hours at the Northern Regions office of the Department of Planning.

Part 2 Rural development

Division 1 Agricultural resources

6 Objectives

The objectives of this plan in relation to agricultural resources are:

- (a) to conserve the productive potential of agricultural land,
- (b) to provide for new forms of agricultural development and changing patterns of existing agricultural development,
- (c) to ensure that commercial agriculture is not affected adversely by incompatible uses which impair its long term sustainability, and
- (d) to ensure that industries and services that support agriculture are not disrupted.

7 Plan preparation—prime crop or pasture land

A draft local environmental plan applying to prime crop or pasture land should:

- (a) identify and include land in an agricultural protection zone and contain provisions that:
 - (i) prevent the subdivision of land within the zone for purposes other than commercial farming,
 - (ii) set minimum allotment sizes which maintain the concept of a minimum area capable of efficient, sustainable agricultural production in the long term,
 - (iii) separate land zoned for residential use from land zoned or used for agricultural use or for intensive animal industries, and
 - (iv) prohibit development which is incompatible with the objectives of this Division, and
 - (v) rezone prime crop or pasture land for purposes other than agricultural only after a detailed analysis of the agricultural capability of the land and adjoining land has been carried out, and
- (b) in relation to any prime crop or pasture land not identified and included in an agricultural protection zone in paragraph (a):
 - (i) include provisions that retain the land for commercial farming purposes, and
 - (ii) set minimum lot sizes which are sufficient to maintain commercial farming in the long term.

8 Plan preparation—minimum lot size

In relation to rural land which is not prime crop or pasture land, a draft local environmental plan should set a sufficient minimum allotment size for the conduct of commercial farming.

9 Plan preparation—concessional lots

A draft local environmental plan should repeal existing provisions relating to the creation of concessional lots on rural land.

10 Plan preparation—cluster farming

A draft local environmental plan which permits development for the purposes of cluster farming should:

- (a) ensure that horticultural development shall only occur in large contiguous areas and that dwellings are located outside those areas, and
- (b) ensure that the residential component of such development is consistent with any rural land release strategy for the local government area.

11 Plan preparation—intensive animal industries

A draft local environmental plan applying to a rural area should require that development for the purpose of an intensive animal industry requires development consent.

12 Development control—impact of development on agricultural activities

The council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

Division 2 Catchment management

13 Objectives

The objectives of this plan in relation to fisheries and catchment management are to preserve and enhance fishery habitats and associated catchments, and to promote the sustainable use of natural resources.

14 Plan preparation—wetlands or fishery habitats

- (1) A draft local environmental plan for land containing rivers, streams, wetland or fishery habitats should:
 - (a) include wetlands, fishery habitats and sufficient land to separate adjoining land uses from the wetlands and fishery habitats in an environment protection zone, and

- (b) include provisions to require the council's consent for development such as agricultural uses, the clearance of vegetation, the filling or draining of land and the construction of levees in the environment protection zone referred to in paragraph (a), and
- (c) be prepared only after consideration of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the land.

(2) (Repealed)

15 Development control—wetlands or fishery habitats

The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,
- (b) the need to conserve the existing amateur and commercial fisheries,
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development,
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,
- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,
- (f) the proximity of aquatic reserves dedicated under the *Fisheries Management Act 1994* and the effect the development will have on these reserves,
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the *Soil Conservation Act 1938* and any measures to prevent soil erosion, and
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment.

Division 3 Geological resources

16 Objectives

The objective of this plan in relation to geological resources is to prevent sterilisation of known resources by inappropriate development on or near to potential extraction sites.

17 Plan preparation—extractive materials

- (1) A draft local environmental plan applying to rural lands should:
 - (a) include in a suitable zone major deposits of extractive materials or minerals as well as sufficient land to separate any likely development on adjoining land from the potential extraction site, and
 - (b) include provisions to prohibit, in the zone referred to in paragraph (a), development which may compromise the proposed extraction operation, such as the erection of a dwelling.
- (2) (Repealed)

18 Development control—extractive industry

- (1) The council shall not consent to a development application for an extractive industry unless it includes any necessary conditions of consent to require implementation both during and after extractive operations of an erosion and sediment control plan and rehabilitation plan.
- (2) (Repealed)

18A Development control—mineral sands mining

- (1) The consent authority must not grant consent for mineral sands mining without the concurrence of the Director.
- (2) In deciding whether to grant concurrence required by this clause, the Director must take into account:
 - (a) the impact of the proposed development on the natural environment,
 - (b) the effect of any disturbance of the land by previous or existing mining activity, and
 - (c) whether natural areas likely to contain habitat for rare or endangered flora or fauna species, significant geomorphological or archaeological features or items of State or regional environmental heritage and cultural value will be disturbed.

Division 4 Rural housing

19 Objective

The objective of this plan in relation to rural housing is to ensure that any opportunities for rural housing area are available only as part of a planned strategy for rural living areas.

20 Plan preparation—rural land release strategy

- (1) The council should not prepare a draft local environmental plan for rural land permitting rural residential or small holding development unless:
 - (a) it has prepared a rural land release strategy for the whole of its area, and
 - (b) the Director has approved of the strategy, and
 - (c) the draft plan is generally consistent with that strategy.
- (2) A copy of any such rural land release strategy should:
 - (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours, and
 - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.
- (3) In identifying land suitable for rural housing, any such strategy is to give preference to areas which:
 - (a) are physically capable of supporting rural housing, and
 - (b) are close to existing settlements which already have services and community facilities, or can otherwise be efficiently and economically serviced, and
 - (c) are physically suitable for septic effluent disposal, and
 - (d) are not required or likely to be required for future urban expansion of existing settlements, and
 - (e) do not comprise prime crop or pasture land, and
 - (f) are not subject to significant environmental hazard, and
 - (g) are not of significant value for the conservation of wildlife.
- (4) Any such strategy is to be based on the average number of allotments needed annually to meet genuine demand for rural residential and small holding development.
- (5) The average annual number of allotments needed to meet such demand over any

period agreed by the Director is not to exceed 130 percent of the average number of building approvals granted for the erection of dwellings (in the course of rural residential and small holding development) in the area in each of the preceding 5 years.

21 Plan preparation—dwellings on rural land

- (1) A draft local environmental plan which permits the erection of dwellings on rural land should:
 - (a) in the case where only one dwelling may be erected on an allotment:
 - (i) identify a minimum allotment size which is suitable for the erection of a dwelling, and
 - (ii) provide that a dwelling may only be erected in an agricultural protection zone if in the opinion of the council the erection of the dwelling will not adversely affect the use of the land for commercial farming purposes, and
 - (b) in the case where a second dwelling may be erected in addition to one already erected on the allotment—provide that the second dwelling may only be erected if in the opinion of the council, the agricultural activity being carried out on the allotment requires an employee to reside permanently in that dwelling.
- (2) In identifying a suitable minimum lot size for the erection of a dwelling as required by subclause (1) (a) (i), the council is to consider the desirability of the retention of the land for commercial farming in the long term and the local circumstances.
- (3) A draft local environmental plan which permits development for the purpose of caravan parks or camping grounds on land in rural or environmental protection zones should only allow the provision of temporary accommodation, unless:
 - (a) the land adjoins or is adjacent to land zoned for urban use, or
 - (b) the land is proposed for permanent residential accommodation in accordance with:
 - (i) a rural land release strategy referred to in clause 20 which has been approved by the Director, or
 - (ii) a land release program referred to in clause 38 (3) which has been agreed to by the Director.

22 Plan preparation—dual occupancy

Except for the benefit of an employee referred to in clause 21 (1) (b), a draft local environmental plan applying to rural land and land zoned for environmental protection, scenic protection or escarpment preservation should not include provisions to permit the erection of more than one dwelling on an allotment of land, but may include provisions to

permit:

- (a) the alteration of or additions to a dwelling erected on an allotment so as to create 2 attached dwellings, or
- (b) the erection of 2 attached dwellings on an allotment.

23 (Repealed)

Division 5 Forestry

24 Objectives

The objectives of this plan in relation to forestry are:

- (a) to facilitate the continued multiple use of State Forests, and
- (b) to facilitate employment opportunities in forestry and the timber industry.

25 Plan preparation—state forests

- (1) A draft local environmental plan for rural land that applies to a state forest should:
 - (a) include state forests in a rural forestry zone, and
 - (b) contain provisions which permit forestry activities to be carried out by or on behalf of the Forestry Commission of New South Wales without the consent of the council.
- (2) (Repealed)

26 Plan preparation—areas other than state forests

A draft local environmental plan applying to rural lands should contain provisions that permit development for forestry purposes to be carried out without the consent of the council if consent is not required for agricultural purposes.

27 Plan preparation—timber processing plants

A draft local environmental plan should not zone land adjoining or adjacent to timber processing plants for residential purposes.

Part 3 Conservation and the environment

Division 1 The natural environment

28 Objectives

The objectives of this plan in relation to the natural environment are:

- (a) to protect areas of natural vegetation and wildlife from destruction and to provide corridors between significant areas,

- (b) to protect the scenic quality of the region, including natural areas, attractive rural areas and areas adjacent to waterbodies, headlands, skylines and escarpments, and
- (c) to protect water quality, particularly within water catchment areas.

29 Plan preparation—natural areas and water catchments

A draft local environmental plan should:

- (a) retain existing provisions allowing the making of tree preservation orders,
- (b) not alter or remove existing environmental protection, scenic protection or escarpment preservation zonings or controls within them, without undertaking a detailed analysis to determine whether there will be adverse environmental effects resulting from such action,
- (c) include significant areas of natural vegetation including rainforest and littoral rainforest, riparian vegetation, wetlands, wildlife habitat, scenic areas and potential wildlife corridors in environmental protection zones,
- (d) contain provisions which require that development in domestic water catchment areas or on land overlying important groundwater resources does not adversely affect water quality, and
- (e) require consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones.

29A Development control—natural areas and water catchment

- (1) The council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones unless it is satisfied that:
 - (a) the wildlife habitat will not be significantly disturbed by the proposed development, and
 - (b) the scenery will not be adversely affected by the proposed development, and
 - (c) an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.
- (2) In this clause, ***clearing of natural vegetation*** means:
 - (a) the removal of the majority of the vegetation, ground cover, topsoil or flora (other than noxious weeds, or trees which are dead, dangerous, exotic or propagated for horticultural purposes) within an area in excess of 1 hectare, or
 - (b) the reduction of the canopy or the population of any one tree species in excess of 20 per cent within an area in excess of 1 hectare,

but does not include such removal or reduction:

- (c) within 3 metres of the boundary of land in different ownership or occupation for constructing or maintaining a fence, or
- (d) within 0.5 metre of the common boundary of land in different ownership or occupation to allow a registered surveyor to survey the boundary.

Division 2 Coastal development

30 Objectives

The objectives of this plan in relation to coastal planning are:

- (a) to enhance the visual quality of the coastal environment,
- (b) to provide for the appropriate recreational use of beaches,
- (c) to protect the water quality of the coastal environment,
- (d) to minimise risks to people and property resulting from coastal processes,
- (e) to minimise changes to coastal processes resulting from development, and
- (f) to encourage retention of natural areas and regeneration of those natural areas which are already degraded.

31 Plan preparation—coastal hazard areas

- (1) A draft local environmental plan for land that is not currently developed should identify any coastal hazard area.
- (2) (Repealed)

32 Plan preparation—coastal foreshore areas

A draft local environmental plan that applies to land adjoining or adjacent to a coastal foreshore area should include provisions that:

- (a) restrict development so as to minimise long term risk to life and property and its impact on the coastal processes, and
- (b) minimise the visual impact of development near the shore, and
- (c) require that the impact of engineering works on coastal processes be assessed, and
- (d) prohibit development landward from the back beach erosion scarp that is at immediate risk from coastal processes, other than development involved with stabilisation works.

32A Plan preparation—coastal lands

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.
- (2) A draft local environmental plan which applies to any such land should:
 - (a) include provisions that give effect to and are consistent with the NSW Coastal Policy 1997, and
 - (b) not remove from existing controls applying to any such land any requirement for the concurrence of the Director for consent to development in coastal protection zones, and
 - (c) prohibit development of buildings or other structures, except those required for erosion control works or beach management, on dunes, beaches or headlands not occupied by buildings or other structures, and
 - (d) when development applications are being determined, require consideration of the possibility of higher sea levels caused by climatic change, and
 - (e) include provisions to the effect that the council must not consent to the carrying out of development on a headland on which buildings are already situated, except where:
 - (i) the height and scale of any buildings that will result from carrying out the development will be no greater than those of the buildings already on the headland, and
 - (ii) an environmental assessment has been carried out including an assessment of the visual impact of the proposed buildings from other headlands within sight of the headland on which the development is proposed to be carried out, and
 - (iii) the proposed development is considered by the council to have a low environmental impact.

32B Development control—coastal lands

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.
- (2) In determining an application for consent to carry out development on such land, the council must take into account:
 - (a) the NSW Coastal Policy 1997,
 - (b) the Coastline Management Manual, and
 - (c) the North Coast: Design Guidelines.

- (3) The council must not consent to the carrying out of development which would impede public access to the foreshore.
- (4) The council must not consent to the carrying out of development:
 - (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or
 - (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

33 Development control—coastal hazard areas

Before granting consent to development on land affected or likely to be affected by coastal processes, the council shall:

- (a) take into account the Coastline Management Manual,
- (b) require as a condition of development consent that disturbed foreshore areas be rehabilitated, and
- (c) require as a condition of development consent that access across foredune areas be confined to specified points.

Division 3 Heritage

34 Objectives

The objectives of this plan, in relation to heritage items and conservation areas, are:

- (a) to conserve the environmental heritage (including the historic, scientific, cultural, social, archaeological, architectural and aesthetic heritage) of the North Coast Region,
- (b) to promote the appreciation and understanding of the North Coast Region's distinctive variety of cultural heritage items and conservation areas including significant buildings, structures, works, relics, towns and precincts, and
- (c) to encourage the conservation of the Region's historic townscapes which contain one or more buildings or places of heritage significance or which have a character and appearance that is desirable to conserve.

35 Plan preparation—conservation areas of State and regional significance

- (1) When preparing a draft local environmental plan which applies to a conservation area, the council should investigate and examine the conservation area's heritage significance and prepare guidelines to assist development controls within the area.

- (2) In the preparation of a draft local environmental plan referred to in subclause (1), the council should consult with the Heritage Council of New South Wales.

36 Development control—heritage items, generally

- (1) A person shall not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish or alter the building or work,
 - (b) damage or move the relic, or excavate for the purpose of exposing the relic,
 - (c) damage or despoil the land on which the building, work or relic is situated or the land which comprises the place,
 - (d) erect a building on, or subdivide, land on which the building, work or relic is situated or on the land which comprises the place, or
 - (e) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,
- except with the consent of the council.
- (2) The council shall not grant a consent required by subclause (1) unless it has made an assessment of:
- (a) the heritage significance of the item,
 - (b) the extent to which the carrying out of the development in accordance with the consent would affect the heritage significance of the item and its site,
 - (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting, should be retained,
 - (d) whether the item constitutes a danger to the users or occupiers of that item or to the public, and
 - (e) measures to be taken to conserve heritage items, including any conservation plan prepared by the applicant.

36A Development control—heritage items of State and regional significance

- (1) The council shall not grant a consent required by clause 36 in relation to heritage items specified or described in Schedule 2 unless the concurrence of the Director is obtained.
- (2) In deciding whether to grant concurrence under subclause (1), the Director shall take into consideration:
- (a) the views of the Heritage Council,

- (b) the heritage significance of the item to the State and the region,
- (c) the extent to which the carrying out of the development would affect the heritage significance of the item and its site,
- (d) whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained,
- (e) measures to be taken to conserve and preserve the heritage item including, where appropriate, any conservation plan, and
- (f) whether the item constitutes a danger to the users or occupiers of that item or to the public.

36B Development control—heritage items of regional significance

- (1) The council shall not grant a consent required by clause 36 to demolish or alter a heritage item specified or described in Schedule 3, unless it has referred the application to the Director.
- (2) Subclause (1) does not apply to the partial demolition of a building or work which, in the opinion of the council, is of a minor nature and does not adversely affect the heritage significance of the building or work.
- (3) Where a copy of an application has been forwarded to the Director pursuant to subclause (1), the council shall not determine the application until:
 - (a) it has received and considered any advice with respect to the application from the Director,
 - (b) it has been notified that the Director does not wish to submit any advice with respect to the application, or
 - (c) 28 working days have elapsed after the date on which the application was referred to the Director,whichever occurs first.

36C Development control—conservation areas of State and regional significance

- (1) The council shall not grant consent in relation to any land within a conservation area unless it has considered the effect of the proposed development on the State and regional heritage value of that area, having regard to the publication *Built Heritage of the North Coast* published by the Department of Planning in 1992.
- (2) In considering an application for consent referred to in subclause (1), the council shall make an assessment of any measures needed to conserve heritage items within the conservation area or the heritage significance of the conservation area including, where appropriate, the preparation of a conservation plan for the whole or part of that

area.

36D Development control—advertising of heritage applications

- (1) Except as provided by subclause (2), the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of the demolition of a building or work that is a heritage item in the same way as those provisions apply to and in respect of designated development.
- (2) This clause does not apply to the partial demolition of a building or work which, in the opinion of the council, is of a minor nature and does not adversely affect the heritage significance of the building or work.

36E Conservation incentive relating to heritage items

- (1) Nothing in this plan, or in a local environmental plan (including a deemed environmental planning instrument), prevents the council from granting consent to:
 - (a) the use, for any purpose, of a building that is a heritage item, or
 - (b) the use, for any purpose, of the land on which the building is erected,if it is satisfied that:
 - (c) the proposed use would have little or no adverse effect on the heritage significance of the area, and
 - (d) the conservation of the building depends on the council granting the consent.
- (2) When considering an application for consent to erect a building on land on which there is situated a building which is a heritage item, the council may:
 - (a) for the purpose of determining the floor space ratio, and
 - (b) for the purpose of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the council is satisfied that the conservation of the building depends upon the council granting the exclusion.

36F Development in the vicinity of heritage items

The council shall not grant consent to the carrying out of development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

Part 4 Urban development

Division 1 Strategic planning

37 Objectives

The objectives of this plan in relation to urban development are to:

- (a) provide for the orderly and economic release of urban land and identify growth centres, and
- (b) promote the efficient commercial functioning of subregional and district centres.

38 Plan preparation—urban land release strategy

- (1) The council should not prepare a draft local environmental plan which permits development that, in the opinion of the council (subject to the directions given by the Director), constitutes significant urban growth unless it has adopted an urban land release strategy for the whole of its local government area.
- (2) A draft local environmental plan referred to in subclause (1) should be generally consistent with the strategy referred to in that subclause.
- (3) The strategy referred to in subclause (1) shall:
 - (a) be based on a land release program and population projections agreed between the council and the Director,
 - (b) give preference to development resulting in urban growth on land that adjoins other land which is already being used for urban purposes and is the most economic to service,
 - (b1) not provide for development of land which is unsuitable for urban growth due to its agricultural capability or which adjoins land that is currently used for agriculture,
 - (c) not include for development land that is unsuitable due to any environmental hazard unless the council has made an assessment of the risk and considered it to be minor or alternatively has made provision for the control or reduction of that hazard,
 - (d) not include for development land which has conservation value or which has heritage, environmental or cultural significance,
 - (e) have regard to the rural character and heritage significance of villages and small coastal settlements and the need to maintain that character and significance, and
 - (f) provide substantial buffer areas between coastal urban centres to avoid uninterrupted coastal development.

- (4) The council must ensure that a copy of the strategy adopted under subclause (1):
- (a) is available, without charge, for public inspection and comment at the office of the council during normal office hours, and
 - (b) is, immediately after it is adopted, forwarded by the council to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.

39 Plan preparation—retail, commercial or business activities

A draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:

- (a) the expansion is adjacent to or adjoins the existing commercial centre, or
- (b) if the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial/retail expansion strategy prepared by the council, published for public discussion and:
 - (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours, and
 - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.

40 Plan preparation—principles for urban zones

A draft local environmental plan applying to urban areas should adopt the following principles:

- (a) zoning should be simple and flexible,
- (b) provisions for flexible zone boundaries may apply to any zones except environmental protection zones,
- (c) detailed guidelines within the broad zone parameters should be identified in a development control plan, and
- (d) the principle of minimising energy use, in particular in the design of buildings and effective transport systems.

Division 2 Urban housing

41 Objectives

The objectives of this plan in relation to housing are to promote the provision of a range of adequate, affordable and suitable housing to meet the needs of the region's population.

42 Plan preparation—principles for housing

- (1) A draft local environmental plan to permit dwellings in urban areas should incorporate provisions that:
 - (a) allow the alteration or addition of a dwelling so as to create 2 dwellings in either attached or detached form,
 - (b) allow a wide range of housing types and densities,
 - (c) separate residential development from other incompatible development, including agricultural activity on adjoining land,
 - (d) require that development for residential purposes should not take place until the council is satisfied that the land on which any dwellings are to be erected is adequately serviced with water and sewage disposal facilities,
 - (e) retain existing provisions to enable a dwelling to be erected on an existing allotment, and
 - (f) permit the use of manufactured home estates for permanent occupation.
- (2) A draft local environmental plan that will permit dwellings to be erected in urban areas should not:
 - (a) require development consent for a dwelling-house in a residential zone, except where there are special environmental or hazard considerations, or
 - (b) specify a minimum allotment size for residential zones.

43 Development control—residential development

- (1) The council shall not grant consent to development for residential purposes unless:
 - (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,
 - (b) it is satisfied that the proposed road widths are not excessive for the function of the road,
 - (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,
 - (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and
 - (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.

Division 3 Environmental hazards

44 Objectives

The objective of this plan in relation to environmental hazards is to locate urban and tourism development on land that is free from flooding, land instability, coastal erosion, bush fire risks, aircraft noise pollution and other environmental hazards.

45 Plan preparation—hazards

- (1) A draft local environmental plan should not permit development for tourism, rural housing or urban purposes on land subject to the following hazards, namely:
 - (a) coastal processes,
 - (b) flooding or poor drainage,
 - (c) dangers arising from potential or actual acid sulphate soils,
 - (c1) dangers arising from contaminated land,
 - (c2) geological or soil instability,
 - (d) bush fire,
 - (e) aircraft noise at levels of more than 25 (measured according to the Australian Noise Exposure Forecast),
 - (f) air or water pollution, or airborne pollution, within 400 metres of sewage treatment works,
 - (g) disposal of septic effluent,
 - (h) existing offensive or hazardous industries, and
 - (i) high tension electrical power lines,unless the council has made an assessment of the extent of the hazard and included provisions in the plan to minimise adverse impact.
- (2) (Repealed)
- (3) In the event of a bush fire hazard being identified for land on which dwellings are proposed to be permitted, the council shall not permit development unless it is satisfied that arrangements where appropriate have been made to:
 - (a) require the creation of a perimeter road or reserve which circumscribes the hazard side of the land intended for that development,
 - (b) require the creation of a fire radiation zone located on the bushland side of the

perimeter road,

- (c) specify minimum building setbacks for buildings that will be erected on allotments adjoining the perimeter road,
- (d) set standards for the use of fire retardant materials for buildings and building construction, and
- (e) provide fire trails which link with individual access roads or a through road.

(4) (Repealed)

45A Plan preparation—flood liable land

- (1) This clause applies to flood liable land within the meaning of the Floodplain Development Manual.
- (2) A draft local environmental plan should:
 - (a) not alter the zoning of flood liable land the zoning of which is described as special use—flood liable, rural, open space, scenic protection, conservation, environment protection, water catchment or coastal lands protection, or similarly described, to a zone described as residential, business, industrial, special use, village or similarly described, and
 - (b) not contain provisions which apply to flood liable land and which:
 - (i) permit an intensification of development on that land, or
 - (ii) are likely to result in an increase in the need for flood mitigation measures (including emergency measures), infrastructure or services, or
 - (iii) permit development to be carried out without development consent, except development for the purpose of agriculture which does not include landfill, drainage canals, fences, buildings or structures in the following places:
 - floodways,
 - high hazard flood fringe,
 - high hazard flood storage areas,as defined in the Floodplain Development Manual,unless justified by a floodplain management plan prepared by the council in accordance with the Floodplain Development Manual.
- (3) A draft local environmental plan should:
 - (a) zone land identified in accordance with the principles contained in the Floodplain

Development Manual as high hazard flood liable or as floodway so as to reflect its potential for flooding, and

- (b) provide that the erection of new buildings on any such land be restricted.

Division 4 Commercial and industrial development

46 Objectives

The objective of this plan in relation to commercial and industrial development is to encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage.

47 Plan preparation and development control—principles for commercial and industrial development

- (1) Before preparing a draft local environmental plan relating to commercial or industrial development, the council should take into consideration the following principles:
 - (a) strong multi-functional town centres should be maintained to focus the drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where that development adjoins or is adjacent to the existing town centre,
 - (b) provisions contained in local environmental plans relating to retail, commercial, business and industrial zones should be flexible, especially to enable the development of light service industry near the central business district,
 - (c) there should be an adequate supply of zoned industrial land located where it is physically capable of development for industrial purposes, is not environmentally fragile and can be serviced at a reasonable cost.
 - (d) (Repealed)
- (2) Before granting consent for industrial development, the council must take into consideration the principle that land used for such development should be located where it can be adequately serviced by the transport system and is accessible from urban areas.

48 Plan preparation—maintenance of industrial development zonings

- (1) A draft local environmental plan applying to an urban area should not substantially reduce existing zonings of land for industrial development.
- (2) The extent of any such reduction referred to in subclause (1) should be considered from the point of view of the total area of land zoned for industrial development within the whole of the council's area.

Division 5 Tall buildings

49 Objectives

The objectives of this plan in relation to the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) subject to the opportunity for public comment, and
- (b) assessed for their local impact and regional significance.

50 Plan preparation—height controls

Before preparing a draft local environmental plan applying to an urban area, the council should consider the necessity for height controls on buildings and include such controls as it considers appropriate.

51 Development control—Director’s concurrence for tall buildings

- (1) In this clause, a reference to a building does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator or any other building, or a building of a class or description of buildings, exempted by the Minister from the provisions of this plan by notice published in the Gazette.
- (2) The council shall not, without the concurrence of the Director, grant consent to a development application for the erection of a building over 14 metres in height.
- (3) In deciding whether to grant concurrence to a development application in respect of development referred to in subclause (2), the Director shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect which it will or is likely to have on the amenity of the area.
- (4) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purpose of a building over 14 metres in height in the same way as those provisions apply to and in respect of designated development.

Part 5 Regional infrastructure

Division 1 Transport

52 Objectives

The objectives of this plan in relation to transport are:

- (a) to safeguard the role and efficiency of the main road system of the region, particularly by recognising the importance of primary arterial roads, and
- (b) to facilitate maintenance and improvement of transport in the region.

53 Plan preparation—primary arterial roads

- (1) A draft local environmental plan applying to a primary arterial road should identify that road and contain provisions to promote the safety and efficiency of the road.
- (2) The provision referred to in subclause (1) should:
 - (a) restrict access on to the road except at specially constructed intersections,
 - (b) where through traffic is in conflict with local traffic, make provision for traffic to bypass major urban areas, and
 - (c) control advertising signs and structures adjacent to or adjoining roads where, in the opinion of the council, safety, scenic or visual amenity would be impaired by the erection of those signs or structures.
- (3) (Repealed)

54 Plan preparation—secondary arterial roads

A draft local environmental plan applying to a secondary arterial road or other main or arterial roads should contain provisions that:

- (a) restrict direct access to the main or arterial road and require that access is obtained from a side road or a service road or land,
- (b) segregate through and local traffic in existing developed areas,
- (c) prohibit development which is adjacent to or adjoining a road on which traffic operates at high speed if, in the opinion of the council, safety would be impaired by the development, and
- (d) prohibit advertising signs and structures adjacent to or adjoining roads where, in the opinion of the council, safety, scenic or visual amenity would be impaired by the erection of those signs or structures.

55 Plan preparation—existing controls for main or arterial roads

A draft local environmental plan applying to a main or arterial road should:

- (a) (Repealed)
- (b) retain or upgrade provisions relating to the control of traffic or access to primary or secondary roads in rural areas.

55A Plan preparation—development of new airports

The council should not prepare a draft local environmental plan which provides for development of land for the purpose of a new airport unless it is satisfied that:

- (a) operation of the airport will not cause excessive noise intrusion to residential localities, and
- (b) the land is substantially free from hazards to air navigation or can be made so without detrimental effects elsewhere, and
- (c) the development will not have a detrimental economic effect on any other airports in the region.

56 Plan preparation—land in the vicinity of aerodromes

- (1) In the preparation of a draft local environmental plan involving land in the vicinity of an aerodrome licensed under the Civil Aviation Regulations of the Commonwealth, the council should:
 - (a) include provisions to control the height of buildings to avoid obstructions and potential hazards to air navigation,
 - (b) include provisions to prohibit residential development on land affected by aircraft noise levels greater than 25 ANEF (measured in accordance with the Australian Noise Exposure Forecast), and
 - (c) include provisions to minimise the risk of obstacles to aircraft, such as bird strike, by requiring consent for development in the vicinity of any such aerodromes which may increase such risk.
- (2) Before preparing a draft local environmental plan referred to in subclause (1), the council should consider the most recent contour plan indicating the Australian noise exposure forecast in the vicinity of the aerodrome.
- (3) In this clause:

Australian noise exposure forecast has the meaning given to that expression in the Australian Standard entitled AS 2021-1994 (*Acoustics—Aircraft noise intrusion—Building siting and construction*) published by Standards Australia in February 1994.

contour plan means the noise exposure plan (of the particular locality concerned) within the meaning of Australian Standard AS 2021-1985 prepared by the Commonwealth Civil Aviation Authority or other appropriate Commonwealth authority.

56A Plan preparation—bus services

In the preparation of a draft local environmental plan involving an alteration to the zoning of land which could give rise to the need for bus services or the revision of existing bus services, the council should take into consideration the guidelines in *Technical Bulletin 19—Planning for Bus Services* (published in 1989 by the Department of Planning and the Ministry of Transport at that time) to ensure that the draft plan allows for the provision of

an adequate and efficient bus route system.

Division 2 Utility services

57 Objectives

The objective of this plan in relation to utility services is to provide the economic and timely provision of utility services to new urban and residential areas.

58 Plan preparation—servicing urban areas

A draft local environmental plan should not permit development for urban purposes unless the council is satisfied that:

- (a) the proposed development will make the most economic use of existing services,
- (b) where the proposed development is adjacent to an existing urban area and that urban area will be substantially increased, the provision of a reticulated water and sewer system will be provided at reasonable cost to each lot,
- (c) the proposed development is located in an area which is consistent with the findings of any urban land release strategy prepared for the local government area or, where no such strategy has been prepared, the proposed development is located in the area to which services can be provided most readily,
- (d) consideration has been given to the identification of effluent disposal and discharge points,
- (e) domestic water catchment areas and water storage areas are not likely to be polluted as a result of the proposed development, and
- (f) consideration has been given to the provision of public transport facilities, pedestrian and cycleways.

59 (Repealed)

Division 3 Health and education

60 Objectives

The objective of this plan in relation to health and education services is to provide a high level of health and education facilities in the region.

61 Plan preparation—health and education facilities

A draft local environmental plan should not zone land for residential purposes on either urban or rural land unless:

- (a) the council is satisfied that:

- (i) there is adequate access available from the proposed development to both health and education facilities, and
 - (ii) the proposed development is so located as to make the best use of existing health and education facilities, and
- (b) where the expected future population is unable to be accommodated by the existing health and educational facilities in the region, the council:
- (i) has identified, in a draft local environmental plan, sites for the location of health and education facilities, or
 - (ii) identifies such sites in a subsequent development control plan.

62 (Repealed)

63 Plan preparation—community use of schools and other facilities

A draft local environmental plan applying to schools, colleges or other educational institutions should contain provisions that:

- (a) permit the community use of the facilities and sites,
- (b) permit the commercial operation of those facilities and sites, and
- (c) permit any person to carry out development for the purposes of community uses of those facilities and sites, whether or not the development is ancillary to that purpose.

Division 4 Community services

64 Objectives

The objective of this plan in relation to community services is to ensure that full account is taken of the need for community services in the planning process.

65 Plan preparation—provision of community, welfare and child care services

- (1) A draft local environmental plan should:
 - (a) not zone land for residential purposes (including rural residential) unless the council has made an assessment of the need for additional community and welfare services and is satisfied that the plan contains adequate provisions to enable the provision of those services, and
 - (b) include child care centres as a land use which is permissible with the council's consent in all rural, residential and business zones.
- (2) (Repealed)

66 Development control—adequacy of community and welfare services

Before granting consent to a development application for the subdivision of land intended for residential or rural residential purposes, the council shall consider the adequacy of community and welfare services available to the land and take into account the results of that consideration.

Part 6 Tourism and recreation

Division 1 Tourism

67 Objectives

The objectives of this plan in relation to tourism development are:

- (a) to encourage tourism activity that will complement the existing natural and man-made features of the region and be of positive benefit to the region's economy, and
- (b) to encourage a range of tourism facilities in the region without degrading important environmental or agricultural features of the region, and
- (c) to encourage the location of tourism facilities so that they may benefit from existing air, road and rail services, physical service infrastructure, other tourist attractions, natural features and urban facilities, and
- (d) to encourage large scale resort development in places that are easily accessible to tourists by roads, railways or water transport (or any combination of them) of a high standard and that are in proximity to urban services.

68 Definitions

In this Division:

large scale resort development includes holiday unit complexes, hotels, motels and integrated resorts which may incorporate convention and recreation facilities, commercial facilities, golf courses and permanent residential accommodation.

prime tourism development areas means the urban areas of Port Macquarie, Coffs Harbour, Tweed Heads, Kingscliff, Ballina and Byron Bay.

small scale or low key tourism development includes rural retreats holiday cabins, caravan parks and camping grounds available for temporary accommodation only, guest houses and hostels.

69 Plan preparation—environmental features and hazards

A draft local environmental plan should not zone land for tourism development unless the council is satisfied that:

- (a) the land is without environmental features worthy of preservation or protection or is free from significant environmental hazards, or
- (b) there are acceptable design, engineering or other solutions that will allow preservation of environmental features or will allay concerns about the hazard.

70 Plan preparation—principles for location of tourism development

A draft local environmental plan that will facilitate tourism development should:

- (a) contain provisions which identify and protect important natural features and ecosystems of the region, and
- (b) permit large scale resort development with permanent residential accommodation only in, or immediately adjacent to, prime tourism development areas, and
- (c) permit in rural or environment protection zones small scale or low key tourism development only, and
- (d) have regard to the North Coast Region Tourism Development Strategy and the Tourism Development Along the New South Wales Coast: Guidelines.

71 Plan preparation—provision of services to tourism development

A draft local environmental plan should not zone land for tourism development unless the council is satisfied that:

- (a) adequate access by road, railway or water transport (or any combination of them) exists or will be provided, and
- (b) reticulated water and sewerage services are or will be available,

or arrangements satisfactory to the council have been or will be made for the provision of those facilities.

72 Plan preparation—large scale resort development

A draft local environmental plan should not zone land to permit large scale resort development unless the following criteria will, in the opinion of the council, be satisfied:

- (a) there will be adequate access to the development, and
- (b) where the development has access to, or depends upon, the beach or other natural features, those features are able to sustain increased public usage, and
- (c) the development will be located on land where the environment is robust enough to support major development or will be carried out in such a way as will allow valuable environmental features to be protected, and
- (d) the land on which the development is to be carried out is within or adjacent to a prime

tourism development area or adequate urban services are available.

73 Plan preparation—residential development and tourism

A draft local environmental plan that will permit tourism development should not include provisions which permit permanent residential accommodation except:

- (a) where it is ancillary to existing tourism development, or
- (b) where the development will be part of an area otherwise identified for urban expansion and is included in a residential development strategy approved by the council.

74 Plan preparation—tourism development on farms

A draft local environmental plan allowing tourism development on farms should contain provisions that:

- (a) require the tourism accommodation to be ancillary to the principal and continuing use of the land for the purpose of agriculture, and
- (b) permit tourism development only where it is compatible with existing neighbouring land uses and does not prejudice continuing agricultural activity.

75 Development control—tourism development

- (1) The council must not grant consent to tourism development unless it is satisfied that:
 - (a) adequate access by road, railway or water transport (or any combination of them) exists or will be provided to service the development, taking into account the scale of the development proposed, and
 - (b) if the proposal involves permanent residential accommodation, all social and community services reasonably required by those residents exist in close proximity to the development, and
 - (c) the development will not be detrimental to the scenery or other significant features of the natural environment, and
 - (d) reticulated water and sewerage are available, or arrangements satisfactory to the council have been made for the provision of those facilities.
- (2) In considering an application for consent to tourism development, the council must have regard to principles contained in the Tourism Development Along the New South Wales Coast: Guidelines.
- (3) The council must not approve an application for large scale resort development unless it is within or adjacent to a prime tourism development area or adequate urban services are available.

76 Development control—natural tourism areas

(1) In this clause:

natural tourism area means an area within the region which:

- (a) adjoins a national park, nature reserve or state recreation area within the meaning of the *National Parks and Wildlife Act 1974*, or a State forest,
- (b) comprises or is adjacent to predominantly Crown land, or
- (c) is, in the opinion of the council, a natural area with qualities which make it a major attraction.

(2) Before granting consent for the development of a natural tourism area for tourism purposes, the council must have regard to the Tourism Development Near Natural Areas: Guidelines for the North Coast regarding the location of facilities, the intensity of development and the means of access available from the development to any adjoining natural areas.

Division 2 Recreation

77 Objectives

The objectives of this plan in relation to recreation issues are:

- (a) to allow provisions for the diverse recreational needs of the community, taking into account expected population growth and visitor use, and
- (b) to prevent environmental degradation caused by excessive or inappropriate recreational use.

78 Plan preparation—public recreation areas

(1) A draft local environmental plan should include provisions which:

- (a) identify areas of potential active or passive recreational use in both urban and rural areas,
- (b) identify a range of recreational environments located in the vicinity of existing and proposed residential development,
- (c) permit recreational uses in a wide range of zones and not only in open space zones,
- (d) identify land for use by the general public to gain access to water bodies and foreshores, and
- (e) manage access to water bodies or foreshores where the environmental features of the area are likely to be damaged by increased public access.

(2) (Repealed)

79 Plan preparation—recreation vehicle areas

(1) Except as provided by subclause (2), a draft local environmental plan should not zone land or permit land to be developed for the purpose of a recreational vehicle area (within the meaning of the *Recreation Vehicles Act 1983*):

(a) where the land is within an area or zone identified in an environmental planning instrument as:

- (i) Coastal Lands Acquisition,
- (ii) Coastal Lands Protection,
- (iii) Conservation,
- (iv) Escarpment,
- (v) Environment Protection,
- (vi) Scenic,
- (vii) Water Catchment,
- (viii) Wetlands, or
- (ix) Agricultural Protection,

or by a word or words which is or are cognate with any word or words used in subparagraph (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix), or

(b) where the land comprises a beach or a dune adjacent to or adjoining a beach.

(2) A draft local environmental plan should not zone other land or permit other land to be developed for the purpose of such a recreational vehicle area unless any guidelines relevant for selecting, establishing or maintaining a recreational vehicle area have been taken into consideration when the draft plan is being prepared.

80 Plan preparation—existing zones for public open space

(1) A draft local environmental plan should not substantially reduce existing reservations or zonings of land for public open space.

(2) For the purposes of subclause (1), the extent of any such reduction should be considered from the point of view of the total area zoned or reserved for open space within the whole of the council's area as at the date on which the council decides to prepare the draft plan.

81 Development control—development adjacent to the ocean or a waterway

- (1) The council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:
 - (a) there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,
 - (b) buildings to be erected as part of the development will not detract from the amenity of the waterway, and
 - (c) the development is consistent with the principles of any foreshore management plan applying to the area.
- (2) Nothing in subclause (1) affects privately owned rural land where the development is for the purpose of agriculture.

82 Development control—sporting fields or specialised recreation facilities

The council shall not grant consent to the development of sporting fields or other specialised recreational facilities unless it has considered the need for access by the community to the facilities and included relevant conditions in its approval to achieve an acceptable level of public access.

Part 7 Miscellaneous

83 Plan preparation—miscellaneous provisions

A draft local environmental plan should:

- (a) adopt the relevant provisions of the Model Provisions made under section 33 of the Act,
- (b) include open space, special uses or other zonings and reservations which are requested by public authorities and are relevant to those authorities' functions,
- (c) include consultation, concurrence or approval provisions requested by a Minister or public authority and which are relevant to those authorities' functions,
- (d) not introduce or remove a requirement to obtain the concurrence or approval of a Minister or public authority without the approval of that Minister or authority,
- (e) not alter or remove existing savings provisions relating to:
 - (i) certain developments by public authorities or public utility undertakings,
 - (ii) use by the Crown of existing buildings,
 - (iii) home occupations, or

- (iv) public special use zones,
- (f) not identify developments as designated development unless the council can demonstrate that the development is likely to have a substantial impact on the environment,
- (g) not alter, create or remove provisions for the acquisition of land without the agreement of the authority responsible for acquiring the land, and
- (h) where it amends a principal local environmental plan that does not embody the policies contained in this plan, include new provisions designed to give effect to such of those policies as are relevant to the land the subject-matter of the subsequent instrument.

Schedule 1 Conservation areas

(Clause 5)

Bellbrook Conservation Area, being the area shown edged heavy black on Sheet 1 of the Conservation Area map. (A138)

Bellingen Conservation Area, being the area shown edged heavy black on Sheet 2 of the Conservation Area map.

Bowraville Conservation Area, being the area shown edged heavy black on Sheet 3 of the Conservation Area map. (A069)

Coraki Conservation Area, being the area shown edged heavy black on Sheet 4 of the Conservation Area map.

Gladstone Conservation Area, being the area shown edged heavy black on Sheet 5 of the Conservation Area map. (A137)

Grafton Conservation Area, being the area shown edged heavy black on Sheet 6 of the Conservation Area map.

Grevillea Conservation Area, being the area shown edged heavy black on Sheet 7 of the Conservation Area map. (A058)

Nimbin Conservation Area, being the area shown edged heavy black on Sheet 8 of the Conservation Area map. (A066)

St Andrew's Conservation Area, being the area shown edged heavy black on Sheet 9 of the Conservation Area map. (A065)

Ulmarra Conservation Area, being the area shown edged heavy black on Sheet 10 of the Conservation Area map. (A134)

Schedule 2 Heritage items of State and regional environmental

significance

(Clause 5)

BALLINA

Ballina

- Richmond River Lighthouse, East Ballina
- “Brundah”, 37 Norton Street

BELLINGEN

Bellingen

- Bellingen Court House, 53 Hyde Street (A095)
- Bellingen Police Station and Residence, 49 Hyde Street (A096)
- Hammond and Wheatley Emporium, Hyde Street

BYRON

Brunswick Heads

- Barnes House, 40 Mullumbimby Street (A088)

Byron Bay

- Cape Byron lighthouse group (comprising lighthouse and residential quarters)

Laverty’s Gap

- Mullumbimby Power Station (comprising the power house containing two water turbines and four diesel generators, the sub-station and the weir, flume and tunnel), Wilson’s Creek Road, near Laverty’s Gap (A029)

CASINO

Casino

- Old Casino Railway Station Group (comprising the former railway station building, the remains of the carpenter’s/fettler’s shed and associated components such as switching gear), located adjacent to the north of Dyraaba Street at the northern end of Walker Street and on the northern side of the Casino-Murwillumbah Railway Line, Casino (A030, A031, A032)

COFFS HARBOUR CITY

Coffs Harbour

- Coffs Harbour jetty

GRAFTON CITY

Grafton

- Clarence River bridge

- Christ Church Cathedral, Cnr Duke and Victoria Streets
- "Arcola" (comprising house, stables buildings, outside toilet, garden and perimeter fencing), 150 Victoria Street
- Grafton Gaol Group (comprising the main gate house, the associated perimeter wall fronting onto Hoof Street, the adjacent former Governor's residence (now used as the administration building), the range building for prison officers and visitors and the male cell block ("A" Wing)), corner of Queen and Hoof Streets (A025)
- The hull of "SS Induna", bank of Clarence River, west of Grafton Road and Rail Bridge (part of the bank of Clarence River below MHW, R56146 from Sale or Lease Generally) and the Bow Memorial in Earl Page Park, near Riverside Drive, South Grafton (A021)

HASTINGS

Ellenborough

- Kindee suspension bridge, Kindee Road off Oxley Highway

Hibbard

- Hibbard slipway (comprising timber slipway to the water and slab engine house), Boundary Street and Narimba Close

Kendall

- School of Arts, Albert and Comboyne Streets

Laurieton

- School of Arts, 58 Bold Street

Port Macquarie

- Port Macquarie Court House, Cnr Clarence and Hay Streets
- Hastings District Historical Society Museum, 22 Clarence Street
- Old General Cemetery, Cnr. Gordon and Horton Streets
- St. Thomas Church of England, Hay Street
- Lake Innes complex (comprising ruins of Lake Innes House, stables block, kitchens, "bachelor's hall", garden remnants and corduroy road across the swamp), The Ruins Way, 10km south of Port Macquarie

KEMPSEY

Arakoon

- Arakoon House, near corner of Philips Drive and Cardwell Street (A141)
- Trial Bay Gaol (comprising remains of gaol, gaol wall, reservoirs and German graves), Laggery Point

Beranghi

- The ruins of “Gordon’s Gaol” huts, remains of graves and “Gordon’s jetty”, located some 200 metres from the Maria River at the foot of “Gordon’s Hill” (Lot 1 DP 196559) (A144)

Frederickton

- Frederickton Public School group (comprising school building, including weather vane and bell tower, residence and shelter shed) Great Northern Road

Kempsey

- Andrews Presbyterian Church and Hall, 67 Smith Street

Kundabung

- Pipers Creek lime kilns, Ballengarra and Maria River State Forests, comprising the remnants of such kilns as are visible above ground level near grid ref 760493—CMA Topo 1:25,0000 Tinebank, and a curtilage of 50 metres around those kilns, excluding existing roadways and associated clearing

South West Rocks

- Pacific Guest House, 21–23 Livingstone Street

KYOGLE

- Tabulam Bridge, Bruxner Highway (over Clarence River) (A037)

LISMORE CITY

Goonellabah

- “Tulloona”, 106 Ballina Road

MACLEAN

Shark Creek

- Shark Creek Bridge, off Pacific Highway

NAMBUCCA

Nambucca Heads

- “Royal Tar” Bed Logs, on vacant Crown land within the Inner Harbour on the northern bank of the Nambucca River near Nambucca Heads (A074)

NYMBOIDA

Ramornie

- The Ramornie Homestead Group (comprising the main dwelling, the former kitchen building and connected walkway and separate stables), Ramornie Station Road, off Gwydir Highway (C003)
- Ramornie meatworks site (comprising animal yard posts, concrete floor slabs, brick-walled bins, dams, drains and artefacts) off Gwydir Highway adjacent to the Orara River

TWEED

Chinderah

- Chinderah Cemetery, Chinderah Road, Chinderah (Lot 493 DP 720407 (R87004 for Preservation of Graves) and Lot 49 DP 841783) (A013)

Murwillumbah

- Murwillumbah High School (comprising the three storey brick classroom block referred to as "A Block"), Riverview Street (Lot 6 DP 820602) (A010)

Schedule 3 Heritage items of regional environmental significance

(Clause 5)

BALLINA

Ballina

- Ballina Court House and Court Office (formerly the Ballina Post Office), corner River and Martin Streets (A090)
- Ballina Public School (the 1881 Old School House), 38-52 Crane Street (A091)
- Fenwick House, Compton Drive

BELLINGEN

Dorrigo

- Hotel Dorriggo, corner Hickory and Cudgery Streets (Lot 3 DP 800990) (A148)

Fernmount

- Former Fernmount Police Station (comprising the brick residence and attached cell block), 647 Waterfall Way (76 Trunk Road) (A104)

BYRON

Bangalow

- Former Bangalow Court House (Lot 2 DP 808373), Byron Street (A092)

Mullumbimby

- Cedar House, 140 Dalley Street (A085)
- Mullumbimby Court House and Police Station (including the lock-up on the southern side), 61 Dalley Street (A131)

CASINO

Casino

- Casino Court House, corner Walker and Richmond Streets (A100)
- Casino Post Office, Barker Street (A061)

COFFS HARBOUR CITY

Coramba

- Coramba Police Station (including the lock-up) and Residence, 71-73 Gale Street (Lot 2 DP 574408) (A103)

COPMANHURST

Alumny Creek

- Alumny Creek Reserve and Alumny Creek Public School Museum, Southgate Road, Alumny Creek near Grafton (Lots 258 and 259 DP 721126 and R140020 for Public Recreation and Museum) (A004)

Copmanhurst

- Copmanhurst Police Station and Residence, Prescott Street (A101)

GRAFTON CITY

Grafton

- Christ Church Hall, Duke Street
- Christ Church Deanery, Duke Street
- Christ Church Georgian Cottage, Duke Street
- National Australia Bank, 39 Prince Street
- Old Grafton Police Station, Cnr Victoria and Duke Streets
- Grafton Courthouse, Victoria Street
- Grafton Post Office, Victoria Street
- Istria, 95 Victoria Street
- "Abbotsford" (single storey weatherboard residence), 11 Alice Street (A159 (1))
- "Bronte" (single storey weatherboard residence), 13 Alice Street (A159 (2))
- Campbell's House (pair of semi-detached single storey dwellings), 58-60 Queen Street (A151)
- "Dovedale" (single storey residence), 8 Breimba Street (Lot 4 DP 37623) (A156)
- "Dunvegan" (two storey former residence), 47 Pound Street (A110)
- Foott Law and Co building, 56 Victoria Street (Lot 17 DP 521140) (A176)
- Former Police Residence, 1 Duke Street (Part Section 4) (A113)
- Grafton Free Presbyterian Church (simple rendered brick building), 138 Fry Street (Part Lot 25 DP 778063) (A152)

- Grafton Teachers' Centre (former Grammar School), Grafton High School, 97 Mary Street (A028)
- Pullens Store and Warehouse Group, 7-9 Prince Street/2 Kemp Street (Lot 5 Section 4 DP 23 and Lot 6 DP 664187) (A158)
- Schaeffer House (single storey rendered former residence formerly called Kia-Ora), 192 Fitzroy Street (Lot 3 DP 521140) (A168)
- St Andrew's Church and Manse, 111-113 Oliver Street (Lots 4, 7-9 and 11 DP 19369) (A153)
- "Telarah" (two storey brick residence), 289 Oliver Street (Lot 1 DP 657317) (A026)
- TJ Ford Pavilion (Lot 264 DP 823617 and R84899 for Showground), Grafton Showground, off Prince Street (A027)

South Grafton

- Walker's Marina Hotel, Cnr Skinner and Through Streets
- Central Hardware, 39 Skinner Street

HASTINGS

Kew

- Kew Police Station (formerly Kew Court House), 20 Tathra Road (A123)

Port Macquarie

- Tacking Point Lighthouse, Lighthouse Road
- Pilot Station cottages, 2, 4, 6 William Street
- Former Pilot's Boatshed, 79 Clarence Street
- "Roto House" (the former National Parks and Wildlife Service District Office and Visitors Centre), Everard Street (A024)

Wauchope

- Former Lock-up Keeper's House (comprising the single storey weatherboard dwelling and former lock-up), 39 Hastings Street (A118)
- Wauchope Court House, 41 Hastings Street (A117)

KEMPSEY

Frederickton

- Former Frederickton Post Office (now a residence), 14 Macleay Street (Pacific Highway) (A147)
- Frederickton School of Arts (old weatherboard hall), 20 Macleay Street (Pacific Highway) (A146)

Gladstone

- Gladstone Police Station and Former Court House, Kinchela Street (Lots 4 and 6 DP 13158)

(A105)

- Gladstone Police Residence and Lock-up (single storey brick residence and separate lock-up at rear), Kinchela Street (Lot 2 DP 13158) (A106)

Kempsey

- Former Australian Joint Stock Bank (now part of the Kempsey Hotel Motel), 5 Belgrave Street (A142)
- Kempsey Court House, Sea Street, West Kempsey (A120)
- Kempsey Police Residence, 4 Sea Street, West Kempsey (A122)
- Oddfellows Hall, 22 Kemp Street
- West Kempsey Civic Group (comprising the All Saints Catholic Church, corner of Kemp and Marsh Streets; the All Saints Anglican Church, corner of Kemp and Sea Streets; the Kempsey Court House, Sea Street; the former Kempsey Police Station and the Police Cottage in Sea Street) (A139)
- West Kempsey Hotel, 43 Elbow Street, West Kempsey (A140)

Smoky Cape

- Smoky Cape lighthouse group (comprising lighthouse, generator building, two residences and store)

South West Rocks

- Former South West Rocks Pilot Station Group (comprising the former pilot's house and the remaining three former boatmen's cottages), including the South West Rocks Police Station, Gregory and Livingstone Streets (C004)

KYOGLE

Casino

- "Dyraaba" station homestead complex, comprising small domestic building of slab walls, timber house, kitchen of slab walls and collection of slab outbuildings, 20km west

Mallanganee

- Mallanganee Public School Residence (formerly the Sandilands Range Public School Residence at Sandilands Range prior to relocation), Tooloom Street (A040)

Sandilands

- Sandilands Homestead site (once called "East Tabulum Station" and comprising the Blacksmith Shop, the slab and weatherboard barn with loft, saddle room and former quarters and two private cemeteries of the Bruxner and Robertson families), Sandilands, Bruxner Highway via Tabulam (A039)

Wyangerie

- Bundock family private cemetery, Apple Tree Stud, Wyangerie via Kyogle (A034 (1))
- Wyangerie Homestead, approximately 1 kilometre off Kyogle-Wodenbong Road, 8 kilometres north of Kyogle, Wyangerie via Kyogle (A034 (2))

LISMORE CITY

Dunoon

- "Cedarville", 49 Rayward Road (includes residence and grounds) (A057)

Lismore

- Boat harbour, Bangalow Road, Lismore (at junction of Wilson's River and Coopers Creek, approximately 4 kilometres north-east of Lismore) (A044)
- Flat Building (known as the Coleman Street Flats), 7 Coleman Street (A053)
- Former Lismore Council Building, 165 Molesworth Street (A181)
- Former Lismore District Works Office (also previously the office of the Department of Public Works and Services), 186 Molesworth Street (A126)
- Former Lismore Post Office, 172 Molesworth Street (A041)
- "Graham Centre" (formerly known as the Australian Joint Stock Bank or the T&G Building), 22 Woodlark Street (A064)
- Lismore Court House (comprising the 1880s built main building), 7 Zadoc Street (A042)
- Lismore Police Station (comprising the main police station building, the lock-up at the rear and the double garage), 40 Molesworth Street (A125)
- North Lismore Pioneer Cemetery and Memorial Park, 2 Nimbin Road (at northern end of Wilson Street), North Lismore (Lot 303 DP 729253 Parish of North Lismore) (A043)
- Carthage's Cathedral, Leycester and Dawson Streets
- St. Mary's Presentation Convent, 1 Dawson Street
- "Winsome Hotel", Bridge Street (A054)

Tucki

- Tucki General Cemetery (including bora ring), Wyrallah Road, 2km north of Tucki Tucki

MACLEAN

Brushgrove

- Former Brushgrove Police Station (including the lock-up) and Residence, corner of Clarence and Brush Grove Streets (A172)

Harwood Island

- Harwood Island Public School and Residence, 9–11 Morpeth Street (A009A (6))
- Harwood Island Sportsground Grandstand, off Mill Street (A009A (7))

Maclean

- Free Presbyterian Church, 6 Wharf Street (A009A (4))
- Maclean Civic Group (comprising the Court House, Police Station (including the lock-up at the rear) and Post Office) Mcnaughton Place (A009A (5))
- Maclean Hospital (comprising the old Operating Theatre only), Union Street (A129)
- Maclean Public School Complex (comprising the brick single storey former principal's residence, the 2–2½ storey brick classroom block and the single storey weatherboard classroom buildings), Woodford Street (A130)
- McFarlane Bridge, across the "South Arm" of the Clarence River (A009A (1))

Yamba

- Pair of former Boatmen's Cottages (formerly part of the Clarence River Pilot Station), Pilot and Clarence Streets (Lot 274 DP 48539, R8920 for Pilot Station) (A009A (8))

NAMBUCCA

Bowraville

- Former Bowraville Court House (now Bowraville Police Station), 25 High Street (A098)
- Sullivan's Bowra Hotel, Cnr High and Belmore Streets

Macksville

- Macksville Court House, 50 River Street (A020)
- Nambucca Hotel (with the principal heritage elements comprising the verandah, entrance foyer and staircase), corner Wallace and Cooper Streets, Macksville (Lot 6 DP 6045 Section B Town of Macksville) (A075)
- Star Hotel (including three original advertising signs at front and timber stables at rear), River Street

Nambucca Heads

- Nambucca Heads Sea-wall located within R81262 from Sale or Lease generally on the northern bank of the Nambucca River between the Nambucca Heads Inner Harbour to the west and Wellington Rocks to the east and including Indicator Point and the Fishing Wall (A082A)

NYMBOIDA

Chambigne

- Bawden Bridge, Old Grafton to Glen Innes Road over Orara River

Copmanhurst

- Newbold Grange complex (comprising single storey pise-walled house and detached kitchen, stucco-walled extension, timber school house, farm outbuildings, garden and dam), Upper Copmanhurst

RICHMOND RIVER

Coombell

- Coombell Bricks (also known as Casino Bricks Pty Ltd) site (A056)

Coraki

- Coraki Bridge, Lismore Road over Richmond River
- Coraki Police Station, 125-129 Richmond Terrace, Coraki (A102)

Evans Head

- Thomas Paddon's Grave, off Iron Gates Road (located on a ridgeline within Lot 163 DP 831052) (A022)

Irvington

- "Irvington Wharf", Irvington Wharf Road, off Bruxner Highway, east of Casino (Lot 260 DP 722406 (R85622 for Future Public Requirements) and Lot 261 DP 722406 (R85660 for Public Recreation)) (A048)

Tomki

- "Tomki Station" (comprising the stone stables, the hexagonal meathouse and the large cast-iron boiling down vat at the entrance to the property within the road reserve), 2135 Bruxner Highway, east of Casino (A050A, A060)

TWEED

Burringbar

- Burringbar Railway Station (1890s weatherboard building) (A014)

Dunbible

- Dunbible Creek Railway Bridge, near Stokers Road Rail Crossing (A016)

Murwillumbah

- Austral Building (also known as "Tongs Corner"), 1 Wollumbin Street (Lot 1 DP 772596) (A033)
- Former Salvation Army Building, 21 Queen Street (Lot A DP 395020) (A189)
- "Lisnagar" near Kynumboom Bridge
- Murwillumbah Civic Precinct (comprising the Murwillumbah Court House, Police Station with original lock-up and Police Residence), 61-83 Murwillumbah Street (Lot 4 Section 1 DP 758739) (A017)

- Murwillumbah Museum, 2 Queensland Road (Cnr Lot 1 Section 30 DP 758739) (A011)

Uki

- Holy Trinity Church (Lot 116 DP 755730), 1473 Kyogle Road (A185)
- The Old Bank (formerly the ES&A Bank) (Lot 6 DP 8107), 1468 Kyogle Road (A188)

ULMARRA

Ulmarra

- Lower Ulmarra former School Residence and School Building (Lot 407 DP 751390), 1708 Pacific Highway (4.7 kilometres north of the Ulmarra village) (A174)