

Richmond River Local Environmental Plan 1992

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New South Wales

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New South Wales

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Richmond River Local Environmental Plan 1992



New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *RICHMOND RIVER LOCAL ENVIRONMENTAL PLAN 1992*.

2 Aims, objectives etc

(1) The general aims of this plan are:

- (a) to encourage the proper management, development and conservation of the natural and man-made resources within Richmond River Shire, to provide for social and economic welfare of the community and to provide a better environment,
- (b) to ensure adequate land is available in suitable locations for the needs of a range of beneficial and appropriate land uses,
- (c) to repeal all existing and deemed local environmental planning instruments which apply to the Shire and to replace those fragmentary instruments with a comprehensive local environmental plan, and
- (d) to maintain the opportunity for public involvement and participation in environmental planning and assessment by using development control plans to supplement the broad controls of the plan.

(2) The particular aims of the plan are:

- (a) to divide land into zones referred to in clause 8 and to achieve, in respect of land within each of those zones, the objectives specified for that zone in the Table to clause 9,
- (b) to encourage the Council to make development control plans regulating the carrying out of development in any zone:
 - (i) by restricting the carrying out of that development to a specified area within the zone, or
 - (ii) by fixing standards or specifying requirements in respect of any aspect of that

development,

- (c) to ensure that development is carried out in such a way as to allow the economic and efficient provision of public services and amenities,
- (d) to promote the conservation of productive and potentially productive agricultural land,
- (e) to ensure that development occurs or is managed in such a manner that there is minimal risk to sensitive environments, including wetlands, coastal systems, wooded slopes and ridgelines and other similar resources,
- (f) to develop a safe, convenient and economic movement system for public and private motor vehicles, cyclists and pedestrians,
- (g) to identify and improve landscape and townscape elements within the villages of the Shire,
- (h) to ensure conservation of the heritage items within the Shire, and the historic, architectural and aesthetic character of the villages within the Shire, and the Shire's rural environment,
- (i) to reduce the incidence of damage in areas subject to flooding by restricting development in the flood plain and in the floodway,
- (j) to reduce the incidence of damage to areas subject to other natural hazards,
- (k) to provide opportunities for tourist orientated development while protecting those elements of the Shire's character that are attractive to tourists, and
- (l) to make zoning adjustment to the villages located within the Shire to allow for urban expansion.

3 Land to which this plan applies

This plan applies to the whole of the land within the Shire of Richmond River as shown on the map.

4 Relationship to other environmental planning instruments

- (1) This plan repeals the environmental planning instruments referred to in subclause (2) as they affect Richmond River Shire.
- (2) The following environmental planning instruments are repealed:
 - (a) *Interim Development Order No 1—Shire of Tomki*,
 - (b) *Interim Development Order No 1—Shire of Woodburn*,
 - (c) Richmond River Local Environmental Plans Nos 1, 2, 3, 4, 6, 8, 9 and 10.

5 Interpretation

(1) In this plan:

ACID SULFATE SOILS means actual acid sulfate soils or potential acid sulfate soils.

ACID SULFATE SOILS ASSESSMENT GUIDELINES means the *Acid Sulfate Soils Assessment Guidelines* as published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee (ASSMAC) and adopted by the Director.

ACID SULFATE SOILS PLANNING MAP means the series of sheets of the map marked “*Richmond River Local Environmental Plan 1992 (Amendment No 5)—Acid Sulfate Soils Planning Map*”, kept in the office of the Council.

ACTUAL ACID SULFATE SOILS are soils containing highly acidic soil horizons or layers resulting from the aeration of soil materials that are rich in iron sulfides, primarily sulfide. This oxidation produces hydrogen ions in excess of the sediment’s capacity to neutralise the acidity resulting in soils of pH of 4 or less when measured in dry season conditions.

ADVERTISEMENT means a display by the use of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

AERODROME means a place or area for the taking off and landing of aeroplanes of any size and that is open to the public, and includes airline terminal buildings and associated facilities.

AGRICULTURAL-RELATED WORKS means any farming or land management activities which will materially alter the shape or natural form of the land or which are likely to alter groundwater levels. They include the following:

- drainage works,
- construction and maintenance of open drains,
- excavation works,
- extractive industries or mining,
- construction of dams, stock water holes, aquaculture ponds and the like,
- site levelling,
- flood mitigation works, including construction of levees (artificial waterbodies),
- topsoil removal and turf farming,

- laying of pipes, cables, conduits and the like,
- dewatering of wetlands, dams and the like.

ALTER, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes that result from the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

ANIMAL ESTABLISHMENT means a building or place used or intended for use for the purposes of intensive husbandry, boarding, training or keeping of animals, birds, fish, crustaceans, insects or the like, generally requiring the provision of special structures or the importation of feed from sources outside the land on which such development is conducted.

APPOINTED DAY means the day upon which this plan is published in the New South Wales Government Gazette.

BED AND BREAKFAST ESTABLISHMENTS means any premises used or intended for use as short term paid accommodation (which may include meals) for travellers or tourists where such accommodation is not self contained and is located within the curtilage of an existing dwelling-house occupied and used by the permanent residents. The term includes home hosting and host farms but does not include caretakers' dwellings, boarding houses, group homes, residential flat buildings, rural worker's dwellings or units for aged persons.

BOUNDARY ADJUSTMENT SUBDIVISION means the subdivision of land upon which a dwelling-house may lawfully be constructed, which creates no additional lot nor entails any existing lot being reduced in size to less than the development standard for a lot prescribed by this plan for the zone in which the land is located.

BUSH FIRE HAZARD REDUCTION means any measures or action undertaken in accordance with the [Bush Fires Act 1949](#) to reduce the potential for or spread of bushfire.

BUSINESS IDENTIFICATION SIGN means an advertisement which, in respect of any place or premises to which it is fixed, contains all or any of the following:

- (a) the identity or a description of the place or premises,
- (b) the identity or a description of any person residing or carrying on an occupation at the place or premises,

- (c) particulars of any occupation carried on at the place or premises,
- (d) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there,
- (e) particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act,
- (f) particulars relating to the goods, commodities or services dealt with or provided at the place or premises,
- (g) particulars of any activities held or to be held at the place or premises,
- (h) a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises.

CARAVAN PARK means land used for the siting of caravans, tents or movable dwellings.

CLASS A ROAD means a road constructed within a public road reserve to a minimum road standard of 5.5 metre sealed carriageway on a 8.0 metre formation.

CLASS B ROAD means a road constructed within a public road reserve to a minimum road standard of 5.5 metre gravel carriageway on a 8.0 metre formation.

COMMUNITY BUILDING means a building or place owned or controlled by the Council and used to provide facilities comprising or relating to any one or more of the following:

- (a) public libraries,
- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding facilities,

or to provide any other like facilities.

CONCESSIONAL ALLOTMENT means:

- (a) an allotment created in accordance with clause 12 (2) or (3) of *Interim Development Order No 1—Shire of Tomki*, or
- (b) an allotment created in accordance with clause 12 (2) or (3) of *Interim Development Order No 1—Shire of Woodburn*.

COUNCIL means the Council of the Shire of Richmond River.

CURRENT PLAN means a “current plan” within the meaning of section 327AA of the *Local Government Act 1919*.

DEMOLITION, in relation to a heritage item or to a building or work within a heritage conservation area, means the damaging, defacing, destruction, pulling down or removal of the heritage item, building or work, in whole or in part.

DRAIN means a depression, ditch or channel deeper than 300mm and that is not naturally occurring, used to convey water from one area to another.

ENVIRONMENTAL EDUCATION FACILITY means a building or place used for environmental educational purposes or for research into the bionomics of land.

EXHIBITION HOME means a dwelling adopted for temporary use as commercial premises for the purposes of the display and promotion of such dwellings.

EXISTING DRAINS means a drain lawfully constructed prior to 20 June 1998 (being the first date during the public exhibition of the draft of *Richmond River Local Environmental Plan 1992 (Amendment No 5)*).

EXISTING HOLDING means:

- (a) in relation to rural land to which *Interim Development Order No 1—Shire of Tomki* formerly applied:
 - (i) a lot, portion or parcel of land as it was at 28 April 1972, or
 - (ii) where, at 28 April 1972, a person owned two or more adjoining or adjacent lots, portions or parcels of land, the parcel consisting of those lots, portions or parcels as they were as at 28 April 1972, or
- (b) in relation to the rural land to which *Interim Development Order No 1—Shire of Woodburn* formally applied:
 - (i) a lot, portion or parcel of land as it was at 18 February 1970, or
 - (ii) where, at 18 February 1970, a person owned two or more adjoining or adjacent lots, portions or parcels of land, the parcel consisting of those lots, portions or parcels as they were as at 18 February 1970,

but does not include any parcel of land used as a dip yard or cattle yard, or constituting closed roads or severed lands arising from road realignment under the *Crown and Other Roads Act 1990* (being land which would otherwise constitute an existing holding).

FLOOD MITIGATION WORKS means structural measures intended to reduce flood damage by either reducing flood levels or the lateral extent of flooding and includes

any of the following:

- levees,
- flood mitigation drains,
- retarding or detention basins,
- bypass floodways,
- flood gates on drains,
- channel improvement.

FLOODWAY means an area of land where a significant volume of water flows during floods.

FLOOR SPACE includes all wall thickness, ducts, vents, staircases, enclosed balconies and liftwells, but does not include:

- (a) any car parking space in a building provided to meet the standards required by the Council (but no such space provided in excess of such standards) or any internal access thereto,
- (b) space used for the loading or unloading of goods, or
- (c) lift towers, cooling towers, machinery and plant rooms and storage space related thereto.

FLOOR SPACE RATIO, in relation to a building, means the ratio of the gross floor area of the building (exclusive of the area of any car port or garage) to the area of the allotment on which the building is or is proposed to be erected.

GROSS FLOOR AREA means the sum of the areas of each floor of a dwelling or dwelling-house where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level, excluding:

- (a) columns, fin walls, awnings or similar devices and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) garages and carports.

HERITAGE CONSERVATION AREA means an area identified as such by a development control plan, being an area which the Council considers to have heritage significance to the Shire of Richmond River and which, in the opinion of the Council, should be preserved and enhanced.

HERITAGE ITEM means a building, work, relic, tree or place of heritage significance

of the Shire of Richmond River described in Schedule 1.

HERITAGE SIGNIFICANCE means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

HOME OCCUPATION means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the *Factories, Shops and Industries Act 1962*, except where registration is required by reason only of the installation and use in the dwelling-house or dwelling of not more than one electric motor having a capacity of not more than 1000 watts,
- (b) the employment of not more than one person other than those residents,
- (c) interference with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise,
- (d) the display of goods, whether in a window or otherwise,
- (e) the exhibition of any notice, advertisement or sign (other than a notice or sign exhibited on the dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (f) a change in the appearance of the dwelling-house or land on which it is erected being out of character with that of the adjoining area.

MAINTENANCE means the continuous protective care of the fabric of a heritage item and its setting.

MAINTENANCE OF EXISTING DRAINS refers to any works that will disturb or remove soil within existing drains.

MOTOR SHOWROOM means a building or place used for the display or sale of motor cycles, motor vehicles, agricultural machinery, caravans or boats, whether or not motor vehicle accessories, agricultural machinery accessories, caravan accessories or boat accessories are sold or displayed therein or thereon.

PARCEL, in relation to land, means any area of adjoining or adjacent allotments, lots or portions held in the same ownership.

POTENTIAL ACID SULFATE SOILS are soils which contain iron sulfides or sulfidic material which have not been exposed to air. They will become severely acid when exposed to air and oxidised. The field pH of these soils in their undisturbed state is pH 4 or more and may be neutral or slightly alkaline.

PRIME CROP OR PASTURE LAND means land identified as class 1, 2 or 3 or special purposes land on maps prepared by the Department of Agriculture and held by the Council, but does not include land notified by the Director-General of the Department of Agriculture to the Council as not being prime crop or pasture land.

PROFESSIONAL CONSULTING ROOMS means a room or a number of rooms attached to or within a dwelling-house used by one professionally qualified practitioner (or two professionally qualified practitioners where two reside together), such as an accountant, architect, engineer, solicitor, doctor, dentist, health care professional or the like, who is the permanent resident of the dwelling-house, where such room or rooms would not involve:

- (a) the employment of more than one person who is not a permanent resident of the dwelling-house,
- (b) the display of goods, whether in a window or otherwise, or
- (c) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house to indicate the name and occupation of the resident).

REAL ESTATE SIGN means an advertisement which, in respect of any place or premises to which it is fixed, contains only a notice that the place or premises is or are for sale or letting (together with particulars of the sale or letting).

RECREATION AREA means:

- (a) a children's playground,
- (b) an area used for sporting activities or sporting facilities,
- (c) an area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated together for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses or showgrounds.

RECREATION VEHICLE AREA means land which is designated as a recreation vehicle area pursuant to an order in force under section 11 (1) of the [Recreation Vehicles Act 1983](#).

RELIC means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the Shire of Richmond River which is 50 or more years old.

REFRESHMENT ROOM means a place where food or beverages are prepared for consumption and includes a restaurant, cafe, tea room, eating house, milk bar, take away food shop or the like.

RESEARCH ESTABLISHMENT means a laboratory or other place where scientific or technological development or research is carried out.

RESIDENTIAL FLAT BUILDING means a building containing 3 or more dwellings, or a number of separate buildings together containing 3 or more dwellings, contained within a single allotment, lot or portion.

RESTRICTED PREMISES means a building or place used or intended for use as a shop, office or place of assembly:

- (a) in or on which classified publications (other than unrestricted publications), within the meaning of the *Indecent Articles and Classified Publications Act 1975*, are exposed, exhibited, displayed, sold or otherwise rendered accessible or available to the public,
- (b) in or on which a business to which section 10 of the *Indecent Articles and Classified Publications Act 1975* applies is conducted, or
- (c) in or on which a business is conducted, an object of which is the display or exhibition of any article (within the meaning of the *Indecent Articles and Classified Publications Act 1975*) that is primarily concerned with sexual behaviour, but which is not printed matter,

but does not include a shop where the business of a newsagent or registered pharmacist is conducted.

RURAL TOURIST FACILITIES means a building or place on a farm (which may include a refreshment room and limited tourist accommodation) which is used to provide tourist education and experience concerning the growing, production or processing of rural products which are grown or cultivated on that farm (for the purpose of this definition, a farm is an area of adjoining or adjacent land held in the same ownership and in continuous use for agriculture or forestry).

TEMPORARY SIGN means an advertisement of a temporary nature which:

- (a) announces any local event of a religious, educational, cultural, social or recreational character or relates to any temporary matter in connection with such an event, and
- (b) does not include advertising of a commercial nature (except for the name of an event's sponsor).

THE MAP means the series of 13 sheets (identified consecutively as Map 1 to Map 13)

of the map marked “*Richmond River Local Environmental Plan 1992 (Amendment No 8)*”, as amended by the following replacement sheets:

MAP 6—replaced by *Richmond River Local Environmental Plan 1992 (Amendment No 25)*

MAP 10—replaced by *Richmond River Local Environmental Plan 1992 (Amendment No 26)*

TRANSFER STATION means a building or place used for the temporary storage and disposal of waste products awaiting transportation to a waste disposal facility.

TRANSPORT TERMINAL means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot, and includes an area situated on a rural property used for the loading of agricultural produce originating from that property onto road transport for bulk haulage by a vehicle which is likely to cause significant damage to local roads.

WASTE DISPOSAL FACILITY means a building or place used for the storage, disposal or treatment of waste products and may include the recycling of recoverable materials.

WORKS THAT MAY ALTER GROUNDWATER LEVELS means drainage works, ground water bores, wells, ground dewatering, or the like on or adjacent to land containing acid sulfate soils which may lower the groundwater level in the general area.

(2) In this plan:

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,
- (b) a reference to a map is a reference to a map deposited in the office of the Council, and
- (c) a reference to land within a zone specified in clause 8 is a reference to land shown on the map in the manner indicated in that clause as the means of identifying land of the zone so specified.

6 Adoption of Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980*, except for:

- (a) the definitions of **advertisement**, **advertising structure**, **airline terminal**, **dwelling**, **gross floor area**, **home occupation**, **map**, **motor showroom**, **professional consulting rooms**, **residential flat building** and **transport terminal** in clause 4 (1),
- (b) clauses 5 (1)–(4), 8 (7), 13–17, 19–23, 26, 29 and 32–34, and

- (c) clause 35 and items 2 and 11 of Schedule 1, only where development consent is required pursuant to clause 18A of this plan,

are adopted for the purpose of this plan.

7 Consent authority

The Council shall be the consent authority for the purpose of this plan.

7A Notes

Notes in this plan are explanatory notes and do not form part of this plan.

7B Exempt development

- (1) Exempt development is development listed in Schedule 1.0 to *Richmond River Shire Council Development Control Plan No 6—Exempt and Complying Development* (as adopted by the Council on 21 September 1999), or specified in this plan, subject to subclauses (2) and (3).
- (2) Development is exempt development only if it satisfies all of the following requirements:
- (a) it does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil or otherwise, and
 - (b) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and
 - (c) it complies with:
 - (i) relevant standards and requirements of this plan, and
 - (ii) relevant standards and requirements specified for that development in Schedule 1.0 of *Richmond River Shire Council Development Control Plan No 6—Exempt and Complying Development* (as adopted by the Council on 21 September 1999), and
 - (iii) any other relevant standards and requirements in any other environmental planning instrument applying to the land on which it is proposed to be carried out, and
 - (d) it does not contravene any condition of a development consent applying to the land, and
 - (e) it does not obstruct drainage of the site on which it is carried out or that of any adjoining land, and

- (f) it does not restrict any vehicular or pedestrian access to or from the site or that of any adjoining land, and
 - (g) it will not involve excavation of soil more than 300 mm below the natural ground surface or in excess of 1 tonne on land identified as Class 1, 2, 3 or 4 on the map titled "*Richmond River Local Environmental Plan 1992 (Amendment No 5) Acid Sulfate Soils Planning Map*", a copy of which is available for inspection at the offices of the Council.
- (3) Development is not exempt development if it is carried out on land that:
- (a) is the site of a heritage item pursuant to this plan, or a heritage item pursuant to the *North Coast Regional Environmental Plan*, or that is subject to an interim heritage order under the *Heritage Act 1977* or that is listed on the State Heritage Register under that Act, or
 - (b) is declared to be an Aboriginal place under the *National Parks and Wildlife Act 1974* or is an Aboriginal relic, or is dedicated or reserved under the *National Parks and Wildlife Act 1974*, or
 - (c) is within an environmental protection zone, or
 - (d) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (e) is land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies, or
 - (f) is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
 - (g) is an aquatic reserve declared under the *Fisheries Management Act 1994*.

Note—

Under Section 76 (3) (a) of the EP&A Act, exempt development cannot be carried out on land that:

- (a) is critical habitat (within the meaning of the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*), or
- (b) is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*).

7C Complying development

- (1) Complying development is development listed in Schedule 2.0 to *Richmond River Shire Council Development Control Plan No 6—Exempt and Complying Development* (as adopted by the Council on 21 September 1999), if:
 - (a) it is local development of a kind that can be carried out only with consent on the

land on which it is proposed to be carried out, and

(b) it is not an existing use, as defined in section 106 of the Act,

subject to subclauses (2) and (3).

(2) Development is complying development only if it satisfies all of the following requirements:

(a) it complies with any deemed-to-satisfy provisions of the *Building Code of Australia* relevant to the development, and

(b) it complies with:

(i) the development standards specified for the development in Schedule 2.0 of *Richmond River Shire Council Development Control Plan No 6—Exempt and Complying Development* (as adopted by the Council on 21 September 1999), and

(ii) any other development standards specified for the development in any other environmental planning instrument applying to the land on which it is proposed to be carried out, and

(c) the development will not involve excavation of soil, on land identified as Class 1, 2, 3 or 4 on the map titled "*Acid Sulfate Soils Planning Map for Richmond River Shire*", a copy of which is available for inspection at the offices of the Council:

(i) to more than 300 mm below the natural ground surface, or by which the watertable is likely to be lowered on land identified as Class 2, or

(ii) to beyond 1 metre below the natural ground surface, or by which the watertable is likely to be lowered to any point beyond 1 metre below the natural ground surface on land identified as Class 3, or

(iii) beyond 2 metres below the natural ground surface, or by which the watertable is likely to be lowered to any point beyond 2 metres below the natural ground surface on land identified as Class 4,

unless the excavation will result in less than 1 tonne of acid sulfate soil material being disturbed or the Council has issued a written advice to the person proposing to carry out the works, pursuant to clause 18A (4), confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfates soils management plan, and

(d) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat*, and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that apply to the land, and

- (e) it does not contravene any condition of a development consent applying to the land, and
- (f) a certificate of compliance has been obtained for the development, if required, from the Council as the local water supply and sewer authority.

Note—

Under Section 76A (6) of the EP&A Act, the following development cannot be complying development:

- (a) State significant development,
- (b) designated development,
- (c) development for which development consent cannot be granted except with the concurrence of a person, other than:
 - (i) the consent authority, or
 - (ii) the Director-General of National Parks and Wildlife as referred to in section 79B (3) of the Act.

(3) Development is not complying development if it is carried out on land that:

- (a) is a site that has previously been used:
 - (i) as a service station, or
 - (ii) as a cattle tick dip site, or
 - (iii) for intensive agriculture, or
 - (iv) for mining or an extractive industry, or
 - (v) for waste storage or waste treatment, or
 - (vi) for the manufacture of chemicals, asbestos or asbestos products, or
 - (vii) in any other manner that could have caused contamination of the land,and a notice of completion of remediation work for the proposed use has not been given to Council in accordance with [State Environmental Planning Policy No 55—Remediation of Land](#), or
- (b) is within an environmental protection zone, or is land that a public authority may be required to acquire under clause 33, or
- (c) is reserved or dedicated under the [Crown Lands Act 1989](#) for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
- (d) is land to which [State Environmental Planning Policy No 14—Coastal Wetlands](#) applies, or

- (e) is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
- (f) is an aquatic reserve declared under the *Fisheries Management Act 1994*, or
- (g) is declared to be an Aboriginal place under the *National Parks and Wildlife Act 1974* or is an Aboriginal relic, or is dedicated or reserved under the *National Parks and Wildlife Act 1974*, or
- (h) is State protected land within the meaning of the *Native Vegetation Conservation Act 1997*.

Note—

Under Section 76A (6) of the EP&A Act, complying development cannot be carried out on land that:

- (a) is critical habitat (within the meaning of the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*), or
 - (b) is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), or
 - (c) comprises, or on which there is, an item of the environmental heritage:
 - (i) that is subject to an interim heritage order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or
 - (ii) that is identified as such an item in an environmental planning instrument, or
 - (d) is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the complying development.
- (4) A complying development certificate issued for any such development is to be subject to the conditions for the development specified in Schedule 3.0 of *Richmond River Shire Council Development Control Plan No 6—Exempt and Complying Development*, (as adopted by the Council on 21 September 1999), as in force when the certificate is issued.

Part 2 General development provisions

8 Zone identification

For the purposes of this plan, land shown on the map in the manner specified in column 1 of the Table to this clause is within the zone specified opposite thereto in column 2.

Table

Column 1

Column 2

1 Rural

black edge and lettered '1 (a)'

1 (a)—Rural (Prime Agricultural Land) Zone

black edge and lettered '1 (b1)'	1 (b1)—Rural (Secondary Agricultural Land) Zone
black edge and lettered '1 (b2)'	1 (b2)—Rural (Marginal and Isolated Agricultural Land) Zone
black edge and lettered '1 (c)'	1 (c)—Rural Residential Zone
black edge and lettered '1 (d)'	1 (d)—Rural (Urban Investigation) Zone
black edge and lettered '1 (e)'	1 (e)—Rural (Extractive and Mineral Resources) Zone
black edge and lettered '1 (f)'	1 (f)—Forest Zone
2 Residential	
black edge and lettered '2 (v)'	2 (v)—Village Zone
4 Industrial	
black edge and lettered '4 (a)'	4 (a)—Industrial Zone
5 Special Uses	
black edge and lettered '5 (a)'	5 (a)—Special Use (Arterial Road Reservation) Zone
black edge and lettered '5 (b)'	5 (b)—Special Use (Local Road Reservation) Zone
6 Open Space	
black edge and lettered '6 (a)'	6 (a)—Open Space Zone
7 Environmental Protection	
black edge and lettered '7 (a)'	7 (a)—Environmental Protection (Wetlands) Zone
cross hatching between black edge and intermittently lettered '7 (b)'	7 (b)—Environmental Protection (Scenic/ Escarpment) Zone
black edge and lettered '7 (c)'	7 (c)—Environmental Protection (Flora and Fauna) Zone
black edge and lettered '7 (f)'	7 (f)—Environmental Protection (Coastal Land) Zone
8 National Parks and Nature Reserves	
black edge and lettered '8 (a)'	8 (a)—National Parks and Nature Reserves Zone

black edge and lettered '8 (b)'

8 (b)—Proposed Future National Park Extension
Zone

9 Zone objectives and development control table

(1) The objectives of each of the zones specified in the Table to this clause are set out under the heading "Objectives of Zone" appearing in the matter relating to the zone.

(2) Except as otherwise provided in this plan, the purposes:

(a) for which development may be carried out without consent,

(b) for which development may be carried out only with consent, and

(c) for which development is prohibited,

on land within each zone specified in the Table to this clause are shown in relation to each of those zones under the words "Without Consent", "Only with Consent" and "Prohibited", respectively.

(3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Zone No 1 (a) Rural (Prime Agricultural Land) Zone

1 Objectives of Zone

The objectives of this zone are:

(a) to enable agricultural activities and extractive industries to be carried out in rural areas,

(b) to ensure prime agricultural land is available for a broad range of agricultural activities,

(c) to protect prime agricultural land from fragmentation to ensure its long-term agricultural viability,

(d) to ensure that any development does not create undue demand for the provision of public amenities or services,

(e) to control development that may restrict the function of or create traffic hazards along main or arterial roads, and

(f) to protect the visual amenity of this rural zone.

2 Without Consent

Agriculture (other than animal establishments); bush fire hazard reduction; dams not located within a floodway; drainage works; exempt development; forestry.

3 Only With Consent

Abattoirs; advertisements; aerodromes; agricultural research establishments; animal establishments; bed and breakfast establishments; bus stations; bush fire establishments; bulk stores for agricultural products; bus depots; childcare centres; community buildings; dams located within a floodway; dwelling-houses; educational establishments; extractive industries; environmental educational facilities; general stores; generating works; golf courses; helipads; heliports; home industries; hospitals; industries directly associated with or dependent upon extractive industries; mines; places of assembly; places of public worship; public roads; public utility undertakings; racecourses; recreation areas; refreshment rooms; research establishments; retail plant nurseries; roadside stalls; rural industries; rural tourist facilities; sawmills; service stations; sports grounds; stock and sale yards; tourist facilities; transfer stations; transport terminals; utility installations; waste disposal facilities.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 1 (b1) Rural (Secondary Agricultural Land) Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to enable agricultural activities and extractive industries to be carried out in rural areas,
- (b) to enable other forms of development to be carried out in rural areas,
- (c) to protect secondary agricultural land from fragmentation and to ensure its long-term agricultural viability,
- (d) to ensure that any development does not make undue demand for the provision of public amenities or services,

(e) to control development that may restrict the function of or create traffic hazards along main or arterial roads, and

(f) to protect the visual amenity of this rural zone.

2 Without Consent

Agriculture (other than animal establishments); bush fire hazard reduction; dams not located within a floodway; drainage works; exempt development; forestry.

3 Only With Consent

Any purpose other than a purpose permitted without consent or a purpose which is prohibited.

4 Prohibited

Boarding houses; bulk stores (other than those storing agricultural produce); bus stations; car repair stations; commercial premises; hotels; industries (other than extractive industries, rural industries or industries directly associated with or dependent upon extractive industries); motor showrooms; professional consulting rooms; public buildings; recreation facilities; residential flat buildings; restricted premises; shops (other than general stores); units for aged persons.

Zone No 1 (b2) Rural (Marginal and Isolated Agricultural Land) Zone

1 Objectives of Zone

The objectives of this zone are:

(a) to enable agricultural activities and extractive industries to be carried out in rural areas,

(b) to enable other forms of development to be carried out on the land within the zone if it is in keeping with the rural character of the locality,

(c) to protect secondary agricultural land from fragmentation and to ensure its long-term agricultural viability,

(d) to ensure that any development does not make undue demand for the provision of public amenities or services,

(e) to control development that may restrict the function of or create traffic

hazards along classified main roads, and

(f) to protect the visual amenity of this rural zone.

2 Without Consent

Agriculture (other than animal establishments); bush fire hazard reduction; dams not located within a floodway, drainage works; exempt development; forestry.

3 Only With Consent

Any purpose other than a purpose permitted without consent or a purpose which is prohibited.

4 Prohibited

Boarding houses; bulk stores (other than those storing agricultural produce); car repair stations; commercial premises; hotels; industries (other than extractive industries, rural industries or industries directly associated with or dependent upon extractive industries); motor showrooms; professional consulting rooms; public buildings; recreation facilities; residential flat buildings; restricted premises; shops (other than general stores); units for aged persons.

Zone No 1 (c) Rural Residential Zone

1 Objectives of Zone

The objectives of this zone are:

(a) to provide land to meet the demand for residential housing in rural surrounds, and

(b) to ensure that the development of this land does not affect the rural environment of the area.

2 Without Consent

Agriculture (other than animal establishments); bush fire hazard reduction; exempt development.

3 Only With Consent

Advertisements; bed and breakfast establishments; child care centres; community buildings; dams; drainage works; dwelling-houses;

environmental educational facilities; forestry; general stores; home industries; places of assembly; places of public worship; recreation areas; rural tourist facilities; utility installations.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 1 (d) Rural (Urban Investigation) Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to identify land which is to be investigated in respect of its suitability for rezoning for urban expansion at a later date, and
- (b) to ensure that development within the zone is compatible with the anticipated future development of the land.

2 Without Consent

Agriculture; bush fire hazard reduction; exempt development.

3 Only With Consent

Advertisements; bed and breakfast establishments; child care centres; community buildings; dams; drainage works; dwelling-houses; environmental educational facilities; forestry; home industries; recreation areas; rural tourist facilities; utility installations.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 1 (e) Rural (Extractive and Mineral Resources) Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to identify land which has an extractive or mining industry potential,
- (b) to prohibit development which would result in the withdrawal of productive or potentially productive mineral resources land, and

(c) to prohibit development which would be adversely affected by the operations of extractive or mineral resources development which generates adverse effects from noise, vibration or dust.

2 Without Consent

Agriculture; bush fire hazard reduction; exempt development; forestry.

3 Only with Development Consent

Advertisements; agricultural bulk stores; animal establishments; community buildings; dams; drainage works; dwelling-houses; environmental educational facilities; extractive industries; generating works; heliports; home industries; industries associated with or dependent on extractive industries; junk yards; liquid fuel depots; mines; offensive or hazardous industries; research establishments; recreation vehicle areas; roadside stalls; rural industries; rural tourist facilities; sawmills; transfer stations; utility installations; waste disposal facilities.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 1 (f) Forest Zone

1 Objectives of Zone

The objectives of this zone are to retain those lands reserved under the [Forestry Act 1916](#) for the purpose of State Forests.

2 Without Consent

Any purpose authorised under the [Forestry Act 1916](#), or any purpose ancillary or incidental to such a purpose.

3 Only With Consent

Nil.

4 Prohibited

Any purpose other than a purpose permitted without consent.

Zone No 2 (v) Village Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to retain the essential character of rural and coastal villages,
- (b) to provide for development of a full range of village activities that are compatible with the character and amenity of the village, and
- (c) to set aside, by means of a development control plan, specific areas within this zone for varying uses and intensities of uses.

2 Without Consent

Bush fire hazard reduction; exempt development.

3 Only With Consent

Any purpose other than a purpose permitted without consent or a purpose which is prohibited.

4 Prohibited

Abattoirs; animal establishments; extractive industries; generating works; junk yards; mineral sand mines; mines; offensive or hazardous industries; recreation vehicle areas; restricted premises; rural workers dwellings; sawmills; stock and sale yards.

Zone No 4 (a) Industrial Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to provide sufficient land for a broad range of industrial uses,
- (b) to allow the necessary support facilities and services in industrial areas,
- (c) to allow commercial or retail development only where it relates to the use of land within the zone for industrial purposes, and
- (d) to set aside, by means of a development control plan, specific areas within this zone for varying industrial uses and intensities of uses.

2 Without Consent

Bush fire hazard reduction; exempt development.

3 Only with Consent

Any purpose other than a purpose permitted without consent or a purpose which is prohibited.

4 Prohibited

Abattoirs; aerodromes; animal establishments; boarding houses; caravan parks; commercial premises (other than those used in conjunction with and situated on the same land as associated industries); dams; educational establishments (other than those providing industrial training); hospitals; hotels; institutions; mineral sand mines; mines; motels; offensive and hazardous industries; places of public worship; professional consulting rooms; public buildings; racecourses; recreation establishments; recreation vehicle areas; refreshment rooms; residential buildings (other than those used in conjunction with industries situated on the land on which such industries are conducted); residential flat buildings; restricted premises; roadside stalls; shops (other than those which retail goods manufactured or processed on the same land as the shop, or provide goods and services for persons working in the zone, or retail goods in bulk—such as bulk hardware shops, bulk furniture shops and carpet showrooms); showgrounds; sports grounds; stock and sale yards; taverns; tourist facilities; units for aged persons.

Zone No 5 (a) Special Use (Arterial Road Reservation) Zone

1 Objectives of Zone

The objective of this zone is to reserve those lands which are required for the purposes of main road widening.

2 Without Consent

Bush fire hazard reduction; roads; road widening.

3 Only With Consent

Advertisements; agriculture; dams; drainage works; exempt development; forestry; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 5 (b) Special Use (Local Road Reservation) Zone

1 Objectives of Zone

The objective of this zone is to reserve those lands which are required for the purpose of local roads or local road widening.

2 Without Consent

Bush fire hazard reduction; exempt development; roads; road widening.

3 Only With Consent

Advertisements; agriculture; drainage works; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 6 (a) Open Space Zone

1 Objectives of Zone

The objective of this zone is to identify land which is currently used or is intended to be used for the purposes of open space or public recreation.

2 Without Consent

Exempt development; works for the purposes of gardening, landscaping or bush fire hazard reduction.

3 Only With Consent

Advertisements; agriculture; caravan parks; caretakers' dwellings; child care centres; clubs; community buildings; clearing of land; cycleways; dams; drainage works; environmental education facilities; environmental protection works; forestry; golf courses; parking; places of assembly; picnic areas; racecourses; recreation areas; recreation facilities; refreshment rooms; showgrounds; sports grounds; surf life saving facilities; utility installations (other than gas holders or generating works); any purpose incidental to a purpose referred to in this item.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 7 (a) Environmental Protection (Wetlands) Zone

1 Objectives of Zones

The objective of this zone is to preserve significant existing wetlands and the natural habitats they support.

2 Without Consent

Nil.

3 Only With Consent

Advertisements; agriculture (other than animal establishments or forestry); clearing of natural vegetation; community buildings; environmental educational facilities; environmental protection works; home occupations; open spaces; picnic areas; recreation areas; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose permitted only with consent.

Zone No 7 (b) Environmental Protection (Scenic/Escarpment) Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to promote the preservation, conservation and enhancement of major landscape features and to preserve prominent hillslopes and ridgelines, and
- (b) to minimise soil erosion on escarpment areas and prevent development in geologically hazardous areas.

2 Without Consent

Bush fire hazard reduction.

3 Only With Consent

Advertisements; agriculture (other than animal establishments); bed and breakfast establishments; child care centres; clearing of natural vegetation; community buildings; dwelling-houses; environmental educational facilities; environmental protection works; extractive industries; forestry; home industries; home occupations; picnic areas; recreation areas; refreshment rooms; rural tourist facilities; tourist facilities; utility installations (other than gas holders or generating works).

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 7 (c) Environmental Protection (Flora and Fauna) Zone

1 Objectives of Zone

The objective of this zone is to preserve the unique flora and fauna of the Shire.

2 Without Consent

Nil.

3 Only With Consent

Advertisements; bed and breakfast establishments; caretakers' dwellings; clearing of natural vegetation; community buildings; drainage works; environmental education facilities; environmental protection works; dwelling-houses; recreation areas; refreshment rooms; utility installations (other than gas holders and generating works).

4 Prohibited

Any purpose other than a purpose permitted only with consent.

Zone No 7 (f) Environmental Protection (Coastal Land) Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to ensure that key parts of the coastal hinterland are maintained in a manner which preserves their scenic and natural environmental

functions,

- (b) to ensure that dune systems are not permanently altered,
- (c) to preserve wildlife habitats,
- (d) to ensure that development is adequately protected from flooding and coastal erosion hazards, and
- (e) to protect potential subterranean water resources.

2 Without Consent

Bush fire hazard reduction.

3 Only With Consent

Advertisements; agriculture (other than animal establishments or forestry); any purpose which does not substantially alter the existing natural environment; any purpose which contributes to the reinstatement of the natural environment; beach amenities; bed and breakfast establishments; clearing of natural vegetation; community buildings; dams; drainage works; dwelling-houses; environmental education facilities; environmental protection works; home occupations; mines; picnic areas; open spaces; recreation areas; rural tourist facilities; sand extraction; research establishments associated with marine and dunal processes.

4 Prohibited

Any purpose other than a purpose permitted without consent or a purpose permitted only with consent.

Zone No 8 (a) National Parks and Nature Reserves Zone

1 Objectives of Zone

The objective of this zone is to identify those lands included in national parks, nature reserves, aboriginal areas and state recreation areas as advised by the Director of National Parks and Wildlife.

2 Without Consent

Any purpose authorised by or under the [National Parks and Wildlife Act 1974](#), or any purpose ancillary or incidental to such a purpose.

3 Only With Consent

Nil.

4 Prohibited

Any purpose other than those permitted without consent.

Zone No 8 (b) Proposed Future National Park Extension Zone

1 Objectives of Zone

The objectives of this zone are:

- (a) to identify those lands which are currently in private ownership which the National Parks and Wildlife Services intends to acquire, and
- (b) to protect the environmental amenity of these lands until they are acquired by the National Parks and Wildlife Service.

2 Without Consent

Nil.

3 Only With Consent

Agriculture (other than animal establishments or forestry); any purpose authorised by or under the *National Parks and Wildlife Act 1974* or any purpose ancillary or incidental to such a purpose; bush fire hazard reduction; clearing of natural vegetation; drainage works; environmental education facilities; environmental protection works; erection or use of buildings or the carrying out of works for the purpose of agriculture; excavation of land; public utility undertakings; utility installations.

4 Prohibited

Any purpose other than those permitted only with consent.

Part 3 Special provisions

Division 1 Subdivision generally

10 Subdivision generally

- (1) A person shall not subdivide land to which this plan applies except with the consent of the Council.

- (2) Notwithstanding any other provision of this plan, the Council may consent to a boundary adjustment subdivision.

Division 2 Rural development

11 Subdivision of land in Zones Nos 1 (a), 1 (b1), 1 (b2), 1 (d), 1 (e), 7 (a), 7 (b), 7 (c) and 7 (f)

- (1) This clause applies to land with Zone No 1 (a), 1 (b1), 1 (b2), 1 (d), 1 (e), 7 (a), 7 (b), 7 (c), or 7 (f).
- (2) Subject to this clause, land to which this clause applies shall not be subdivided unless each allotment to be created has an area of:
- (a) not less than 40 hectares in the case of land within Zone No 1 (a),
 - (b) not less than 100 hectares in the case of land within Zone No 1 (b1),
 - (c) not less than 200 hectares in the case of land within Zone No 1 (b2),
 - (d) (Repealed)
 - (e) not less than 10 hectares in the case of land within Zone No 1 (d).
- (3) For the purposes of this clause, land within Zone No 1 (e), 7 (a), 7 (b), 7 (c) or 7 (f) shall be regarded as being land within Zone No 1 (a), 1 (b1) or 1 (b2), whichever is the nearest.
- (4) If a parcel of land that is partly within Zone No 1 (c) is subdivided under clause 11A and the residue of the parcel, being land to which this clause applies, is less than the minimum standard required by subclause (2), an allotment having an area that is less than the minimum standard required by subclause (2) may be created where it:
- (a) has an area not less than 1 hectare, and
 - (b) comprises the consolidation of the residue of the parcel.
- (4A) An allotment may be created under subclause (4) even if it excludes from any consolidation any allotments that:
- (a) have a lawfully erected dwelling on them, or
 - (b) could have a dwelling erected on them subject to clause 14.
- (5) Notwithstanding subclause (2), the Council shall not consent to a subdivision of land which creates an allotment of land irrespective of whether it complies with the minimum area requirement specified in subclause (2), unless the Council is satisfied:
- (a) that such allotment has practical vehicular access of a reasonable standard,

- (b) that the shape and ratio of depth to frontage of such allotment is reasonable having regard to the purpose for which it is to be used, and
 - (c) that such allotment will not create ribbon development along a road.
- (6) The separate occupation of the proposed lots illustrated by a proposed strata plan relating to land to which this clause applies is prohibited.

11A Subdivision of land in Zone No 1 (c)

- (1) This clause applies to land within Zone No 1 (c).
- (2) Land to which this clause applies must not be subdivided unless:
 - (a) the land is identified on the map as “Hillside Drive”, “Araluen Heights” or “Sherwood Park” and:
 - (i) each allotment to be created has an area of not less than 0.5 hectare, and
 - (ii) the average area of allotments is greater than 1.25 hectares, or
 - (b) each allotment to be created has an area of not less than 1 hectare.
- (3) In calculating the average area of allotments referred to in subclause (2) (a) (ii), allotments having an area in excess of 4 hectares are to be excluded.

12 Special use subdivision

The Council may consent to the subdivision of land within any zone referred to in clause 11 so as to create allotments of any size if the Council is satisfied the allotments will be used for a purpose permitted within that zone (other than agriculture, forestry or a dwelling) that is ancillary to a use of the land for which consent has been granted and the Council is satisfied that:

- (a) there will be practical access to each allotment for the use for which it is intended,
- (b) each allotment will have a satisfactory shape and frontage for the use for which it is intended, and
- (c) the use of the allotments will not cause a traffic hazard or create or tend to create ribbon development along a road.

13, 13A (Repealed)

14 Dwelling-houses in Zones No 1 (a), 1 (b1), 1 (b2), 1 (c), 1 (d), 1 (e), 7 (a), 7 (b), 7 (c) and 7 (f)

- (1) The Council may, where no dwelling exists, consent to the erection of one dwelling-house on:
 - (a) any allotment created in accordance with clause 11 or 11A,

- (b) any parcel of land which could have been created as an allotment in accordance with clause 11 but for the fact that the parcel of land already exists as one or more allotments in a current plan,
 - (c) any allotment of not less than 40 hectares in area created with the consent of the Council before the appointed day,
 - (d) any parcel of land of not less than 40 hectares in area which could have been created as an allotment with the consent of the Council but for the fact that the parcel of land already existed as one or more allotments in a current plan, provided that such parcel of land was held in separate ownership from the balance of the existing holding at the appointed day,
 - (e) any concessional allotment,
 - (f) any parcel of land which could have been created as a concessional allotment with the consent of the Council but for the fact that the parcel of land already existed as one or more allotments in a current plan, provided that such parcel of land was held in separate ownership from the balance of the existing holding at the appointed day,
 - (g) any existing holding,
 - (h) any allotment within Zone No 1 (c),
 - (i) any parcel of land which was zoned Village/Township immediately prior to the appointed day,
 - (j) any parcel of land created with the consent of the Council under clause 13 (as that clause was in force before its repeal by *Richmond River Local Environmental Plan 1992 (Amendment No 18)*), and
 - (k) any allotment resulting from a boundary adjustment subdivision.
- (2) Where, because of subclause (1), a dwelling may, with the consent of the Council be erected on a parcel of land only if the parcel has a minimum area and that parcel of land consists of a number of lots in a current plan, the Council may, as a condition of consent for the erection of a dwelling, require the lots to be consolidated.

15 Dual occupancy in Zones Nos 1 (a), 1 (b1), 1 (b2), 1 (c), 1 (d) and 7 (b)

- (1) Notwithstanding any other provision of this plan, but subject to this clause, one additional dwelling (hereafter called a **secondary dwelling**) may, with the consent of the Council, be established on a parcel of land within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c), 1 (d) or 7 (b) in conjunction with an existing or proposed first dwelling (hereafter called a **primary dwelling**).
- (2) The Council shall not consent to the erection of a secondary dwelling unless the

Council is satisfied that:

- (a) the secondary dwelling is to be physically attached to the primary dwelling,
 - (b) vehicular access to both the secondary and primary dwellings is to be serviced by the same gutter crossing and driveway,
 - (c) the road network in the vicinity of the proposed development can accommodate in a satisfactory manner the additional traffic that will be generated because of use of the secondary dwelling,
 - (d) there is sufficient water for domestic purposes available for the occupants of both the primary and the secondary dwellings,
 - (e) the parcel of land on which the primary and secondary dwellings are to be located is not affected by flood or subject to other natural hazards, and
 - (f) the erection of a secondary dwelling would not result in more than two dwellings being established on the land.
- (3) The Council may, in relation to any such consent, impose a condition requiring the owner of the allotment to occupy either the primary or secondary dwelling.

16 Rural worker's dwelling

- (1) This clause applies to land within Zone No 1 (a), 1 (b1) or 1 (b2).
- (2) A rural worker's dwelling may, with the consent of the Council, be erected on a parcel of land to which this clause applies provided that:
 - (a) the Council is satisfied that a demonstrated need exists for the worker's dwelling based on the existing commercial viability of the parcel of land as an agricultural holding, and
 - (b) the Council has consulted with the Director-General of the Department of Agriculture on the commercial viability of the land.
- (3) For the purpose of determining an application for any such worker's dwelling, the Council shall consider any dwelling on the parcel of land in excess of the primary dwelling to be available for use by an agricultural worker.

17 Clearing and scenic protection

- (1) Subject to this clause, clearing of land may be carried out on a lot, allotment or portion of land within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c), 1 (d), 1 (e) or 1 (f) without the consent of the Council for the purposes of agriculture, forestry, air navigation, river navigation, bush fire safety or road safety, provided that these works do not result in the clearing of more than 99% of the area of the lot, allotment or portion, with the calculation of total cleared area being exclusive of vegetation occurring along

designated waterways.

- (2) Nothing in subclause (1) authorises the clearing of land in contravention of any Act or law concerned with soil erosion, protection of catchment areas or the like.
- (3) A person shall not, on land within Zone No 7 (b) or 7 (c), without the consent of the Council:
 - (a) carry out the clearing of land or the excavation of land, or
 - (b) erect a building.
- (4) The Council shall not consent to the clearing of land or excavation of land within Zone No 7 (b) or 7 (c) unless:
 - (a) the clearing is essential for the reasonable economic use of the land or the provision of utility services,
 - (b) the clearing is proposed to be carried out in a manner which minimises:
 - (i) visual and scenic impact,
 - (ii) the risk of soil erosion (including erosion by wind),
 - (iii) the risk of water pollution, through increased siltation or otherwise, and
 - (iv) the destruction of rare or important vegetation systems,
 - (c) the clearing is essential to reduce the risk of bush fires,
 - (d) appropriate measures are proposed to retain parts of existing vegetation, or to landscape the site,
 - (e) the clearing will not adversely affect wildlife or wildlife movement patterns, and
 - (f) the cleared material will be satisfactorily disposed of and, in particular, will not obstruct waterways.
- (5) The Council shall not consent to the erection of a building on land within Zone No 7 (b) unless it has made an assessment as to whether it should impose conditions relating to:
 - (a) the height and location of the building, and
 - (b) the colour of material,to ensure that the building blends with the surrounding landscape and other development and preserves or enhances the scenic quality of the land.
- (6) Nothing in the clause shall operate to preclude the Council adopting a Tree

Preservation Order to further restrict or qualify the clearing of land to which this Plan applies.

- (7) For the purpose of this clause, **clearing of land** means the destruction of any vegetation, but does not include:
- (a) the removal of vegetation for the siting of a dwelling-house or building for which consent has been granted plus a sufficient area around such structure to reduce bush fire hazard,
 - (b) the cutting of timber provided:
 - (i) there is no material difference in density of vegetation, and
 - (ii) the ground remains substantially undisturbed,
 - (c) bush fire hazard reduction carried out in accordance with the *Bush Fires Act 1949*, or
 - (d) the removal of introduced species of flora which are, in the opinion of the Council, noxious weeds.

18 Clearing and excavation of land within Zones Nos 7 (a) and 7 (f)

- (1) The clearing, drainage, excavation or filling of land within Zone No 7 (a) or 7 (f) shall not be carried out without the consent of the Council and the concurrence of the Director of Planning.
- (2) The Director of Planning shall not grant concurrence to the carrying out of any such development on land within Zone No 7 (a) or 7 (f) unless the Director has taken into consideration:
- (a) the likely effect of the development on the flora and fauna found in the wetlands or on the coastal dune system,
 - (b) the likely effect of the development on the water table, and
 - (c) the likely effect of the wetlands or coastal dune system of any proposed clearing, draining, excavating or filling.

18A Development on land containing acid sulfate soils

- (1) **Objectives** The objective of this clause is to require special assessment of certain development on land identified as being subject to acid sulfate soils.
- (2) **Consent usually required** A person must not, without the consent of Council, carry out works described in the following table on land of the class or classes specified for those works in that table and shown on the Acid Sulfate Soils Planning Map, except as provided by subclause (4).

Table

Class of land as shown on Acid Sulfate Soils Planning Map

WORKS

1	Any works
2	Works below the natural ground surface; Works by which the watertable is likely to be lowered.
3	Works beyond 1 metre below the natural ground surface; Works by which the watertable is likely to be lowered to any point beyond 1 metre below the natural ground surface.
4	Works beyond 2 metres below the natural ground surface; Works by which the watertable is likely to be lowered to any point beyond 2 metres below the natural ground surface.
5	Works which are likely to lower the watertable in adjacent Class 1, 2, 3 or 4 land to any point below 1 metre AHD.

- (3) For the purposes of subclause (2), **works** includes:
- (a) any disturbance of more than one tonne of soil (such as occurs in carrying out agriculture, agricultural-related works, the construction or maintenance of drains, engineering works, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams and detention basins) or foundations, or flood mitigation works), or
 - (b) any other works that are likely to lower the watertable.
- (4) **Exception following preliminary assessment** This clause does not require consent for the carrying out of works if:
- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment Guidelines* has been given to the Council, and
 - (b) the Council has provided written advice to the person proposing to carry out the works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment Guidelines*.
- (5) **Considerations for consent authority** Council must not grant a consent required by this clause unless it has considered:
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines*,

- (b) the likelihood of the proposed development resulting in the discharge of acid water,
 - (c) any comments received from the Department of Land and Water Conservation within 21 days of the Council having sent that Department a copy of the development application and the related acid sulfate soils management plan, and
 - (d) whether the application was made in accordance with *Richmond River Development Control Plan No 5—Acid Sulfate Soils*.
- (6) **Public authorities** This clause requires consent for development to be carried out by Richmond River Shire Council, other councils, county councils or drainage unions despite:
- (a) Clause 35 and items 2 and 11 of Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*, as adopted by this plan, and
 - (b) Clause 10 of *State Environmental Planning Policy No 4—Development Without Consent*.
- (7) **Special provisions for Council and county councils** Notwithstanding the provisions of subclause (6), the following types of development may be carried out without consent by the Council or a county council:
- (a) development consisting of emergency work,
 - (b) development consisting of routine maintenance, and
 - (c) development consisting of minor work,
- and development ancillary to that development, such as the carrying out of excavation work, the construction of accessways and the provision of power supplies.
- (8) Despite subclause (7), development consisting of routine maintenance or minor work may be carried out only with consent if the development is on a site listed as a heritage item in Schedule 1.
- (9) Where the Council or a county council carries out development described in subclause (7) and encounters, or is reasonably likely to encounter, actual acid sulfate soils, the Council or county council shall properly deal with those soils in accordance with the *Acid Sulfate Soils Management Guidelines* so as to minimise the actual or potential impact to the environment arising from disturbance of the soils.
- (10) In this clause:

COUNCIL'S WORKS means such works as are owned or controlled by the Council.

COUNTY COUNCIL has the meaning as in the *Local Government Act 1993*.

EMERGENCY WORK means the repair or replacement of any part of the Council's works or the works of a county council:

- (a) because it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or
 - (b) because it has ceased to function or suddenly ceased to function adequately,
- and includes work reasonably necessary to prevent or limit any further damage or malfunction.

ENGINEERING WORKS means works carried out under the supervision of a suitably qualified engineer and using equipment or plant. Such works may consist of or include any of the following:

- construction of roads, bridges, buildings, levees, dams, railways or drains,
- laying of pipes, cables or conduits,
- levelling of the ground,
- extractive industries or mining,
- dewatering,
- flood mitigation works,

or the like, and may consist of or include an agricultural-related work.

MINOR WORK means new work affected by the Council or a county council, but not drainage work, which has a value not greater than \$20,000.

ROUTINE MAINTENANCE means the periodic inspection, cleaning, repair and replacement of the Council's works or the works of a county council, but does not include work that would result in an increase in the design capacity of any part of those works or necessitate the deepening of an existing works capacity, except where one tonne, or less, of soil, is disturbed.

WORKS OF A COUNTY COUNCIL means such works as are owned or controlled by a county council.

Division 3 Urban development

19 Residential development standards

- (1) This clause applies to land within Zone No 2 (v).
- (2) The Council may approve a development control plan in respect of land to which this clause applies to control development for the purpose of residential flat buildings:

- (a) by restricting the carrying out of that development to a specific area within the zone, and
- (b) by fixing standards or specifying requirements in respect of any aspect of that development.

19A Dual occupancy development

- (1) This clause applies to land within Zone No 2 (v).
- (2) In this clause, **dual occupancy** means 2 dwellings (whether attached or detached) on:
 - (a) a single allotment of land, or
 - (b) 2 allotments of land created in accordance with this clause.
- (3) The Council must not grant consent to development for the purpose of a dual occupancy unless:
 - (a) the site area is not less than:
 - (i) where the dwellings will be attached—400 square metres, or
 - (ii) where the dwellings will not be attached—600 square metres,
 - (b) the floor space ratio of the dual occupancy will be not greater than:
 - (i) where the dual occupancy is to be erected—0.5:1,
 - (ii) where an existing building is to be altered to create the dwellings and the floor space ratio before the building is altered exceeds 0.5:1—the floor space ratio before the building is altered, or
 - (iii) where an existing building is to be altered (or added to) to create the dwellings and the floor space ratio before the building is altered or added to does not exceed 0.5:1—0.5:1, and
 - (c) arrangements satisfactory to the Council have been made for the provision of a water supply to each dwelling and for the disposal of sewage and stormwater from each dwelling.
- (4) The Council must not grant consent to a subdivision of a dual occupancy unless the consent relates to land on which there is an existing dual occupancy or to land in respect of which the Council grants consent at the same time for dual occupancy on the unsubdivided allotment.

Division 4 Roads

20 Development adjoining arterial roads

- (1) Notwithstanding the provisions of any other clause in this plan, a person shall not carry out development on land within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c) or 1 (d) for a purpose referred to in Schedule 3 within 400 metres of a main road if carrying out the development will involve use of any form of direct vehicular access from, or within 90 metres of, a main road.
- (2) Where development for a purpose referred to in Schedule 3 is permitted within 400 metres of a main road, the Council may require as a condition of consent that the development be screened from the main road by landscaping and tree plantings.
- (3) Notwithstanding subclause (1), the Council may consent to development for a purpose referred to in Schedule 3 where it is carried out in conjunction with a service station.

Division 5 Environmental heritage

21 Heritage items

- (1) A person shall not, in respect of a building, work, relic, place or tree 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 place or tree,
 - (d) erect a building on or subdivide land on which the building, work or relic is situated or that 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 consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features and its setting.

22 Development in the vicinity of heritage items

The Council shall not grant consent to an application to carry out 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.

23 Heritage advertisements and notifications

- (1) Except as provided by subclause (2):
 - (a) the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:
 - (i) the demolition of a building or work that is a heritage item, and
 - (ii) the demolition of a building or work within a heritage conservation area,in the same way as those provisions apply to and in respect of designated development, and
 - (b) where a person makes a development application for consent to demolish a building or work that is a heritage item, the Council shall not grant consent to that application until 28 days after the Council has notified the Secretary of the Heritage Council of its intention to do so.
- (2) Subclause (1) does not apply to the partial demolition of a heritage item if, in the opinion of the Council, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item in relation to the environmental heritage of the Shire of Richmond River.

24 Provisions relating to heritage items covered by a conservation instrument

Clauses 21 and 23 shall not apply where the building, work, relic, tree or place that is a heritage item or is within a heritage conservation area is the subject of a conservation instrument within the meaning of, and made pursuant, to the [Heritage Act 1977](#).

Division 6 Specific development

25 Iron Gates Development

- (1) This clause applies to Portions 163, 164, 276 and 277, Parish of Riley.
- (2) The Council shall not grant consent to the carrying out of development on an allotment of land to which this clause applies unless arrangements satisfactory to it have been made:
 - (a) for the amplification of the existing water supply to that land,
 - (b) for the construction of a road of a standard satisfactory to the Council between that land and Evans Head, and
 - (c) by the applicant for development consent and (if that applicant is not the owner of the allotment) by that owner also for:
 - (i) the provision to that allotment of both a reticulated water supply and a

sewerage service, and

(ii) the distribution of electricity to that allotment.

26 Pacific Pines Development

- (1) This clause applies to lot 107, DP 626582, Parish of Riley.
- (2) The Council shall not consent to the carrying out of development on land to which this clause applies until after it has had consultations with and has made an assessment of advice from:
 - (a) the Commissioner of the Soil Conservation Service, in relation to the taking of appropriate measures:
 - (i) to maintain the stability of the coastal dune system within, and in the vicinity of, the land,
 - (ii) to inhibit coastal erosion and to alleviate its effects, and
 - (iii) to reduce the likelihood of the land, and of buildings situated on the land, being inundated by flood waters,
 - (b) the Director of Public Works, in relation to the taking of appropriate measures:
 - (i) to maintain the stability of the coastal dune system within, and in the vicinity of, the land,
 - (ii) to inhibit coastal erosion and to alleviate its effects, and
 - (iii) to reduce the likelihood of the land, and of buildings situated on the land, being inundated by flood waters, and
 - (c) the Director of the State Emergency Service, in relation to the preparation of a plan (being a plan that is based on an early warning time of not more than 10 hours) to ensure that occupiers of the land can be safely evacuated from the land where the land is in imminent danger of being inundated by flood waters.
- (3) The Council shall not consent to the subdivision of the land to which this clause applies.
- (4) Subject to subclause (5), nothing in this plan prevents a person, with the consent of the Council, from carrying out development on the land to which this clause applies for a tourist facility with associated uses.
- (5) The Council shall not grant consent to development referred to in subclause (4) after the expiration of two years from the appointed day or after such later day as the Minister may, before the expiration of that period, notify by order published in the Gazette.

- (6) Nothing in subclause (3) shall prevent the Council from granting consent to the carrying out of alterations or extensions to or the rebuilding of a building or place being used for a purpose for which consent has been granted in accordance with this clause.

27 Development of the Glebe, Coraki

- (1) This clause applies to that land known as the Glebe, Coraki, parish of West Coraki and is defined as being all that land north of Dawson Street, Coraki within Zone No 2 (v).
- (2) Subject to subclause (4), the Council shall not consent to the erection of more than one dwelling for each holding of land to which this clause applies.
- (3) For the purposes of this clause, **holding of land** means a parcel of land to which this clause applies in the one ownership as at 16 June 1987, whether consisting of one allotment or portion or of more than one adjoining, adjacent or separate allotment or portion.
- (4) Notwithstanding subclause (2), the Council may consent to more than one dwelling on each holding of land if all dwellings are provided with a reticulated water supply and connected to a centralised sewage disposal system.

27AA Development of New Italy Monument, New Italy

- (1) This clause applies to Lot 1, DP 207390, corner of Swan Bay-New Italy Road and the Pacific Highway, New Italy, Parish of Donaldson, County of Richmond, as shown edged heavy black on the map marked "*Richmond River Local Environmental Plan 1992 (Amendment No 17)*".
- (2) The Council must not consent:
 - (a) to the subdivision of the land to which this clause applies for the purpose of the separate occupation of each lot created by the subdivision, or
 - (b) to the erection on the land of any building to be used for residential purposes.
- (3) The provisions of this clause cease to apply if the land is consolidated into the immediately adjoining parcel of land.

27A Development for certain additional purposes

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 5 for the purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of the

development.

Part 4 Miscellaneous provisions

Division 1 Miscellaneous controls

28 Height of buildings

The Council shall not grant consent to the erection of a building which has a height in excess of three storeys.

29 Development of flood liable land

- (1) This clause applies to flood liable land as indicated by the 1:25,000 Topographic Map Series produced by the Central Mapping Authority held by the Council.
- (2) A person shall not carry out filling or construction of levees on flood liable land except with the consent of the Council.
- (3) A person shall not erect a building or carry out work on flood liable land unless the Council is satisfied that:
 - (a) the development would not unduly restrict the flow characteristics of flood waters,
 - (b) the development would not unduly increase the level of flooding on other land in the vicinity,
 - (c) the structural characteristics of any building or works, the subject of the application, are capable of withstanding flooding, and
 - (d) the building is adequately flood proofed.
- (4) The Council may require the floors of habitable rooms of a building to be erected at a height which is sufficient, in its opinion, to obviate the frequent flooding of the building.

30 Provision of services

- (1) The Council shall not consent to the carrying out of development on any land unless it is satisfied that adequate arrangements have been made for the provision of water, drainage, and the disposal of sewerage effluent.
- (2) The Council may approve a development control plan in respect of standards for water, sewerage and drainage.

31 Preservation of trees

The powers conferred on the Council in pursuance of clause 8 of the *Environmental Planning and Assessment Model Provisions 1980* shall not apply to trees:

- (a) in a State Forest or on land reserved as a timber reserve within the meaning of the *Forestry Act 1916*, or on other Crown lands,
- (b) required to be lopped in accordance with the *Electricity (Overhead Line Safety) Regulation 1991*, or
- (c) in a proclaimed National Park, Nature Reserve or other lands reserved or dedicated under the *National Parks and Wildlife Act 1974*.

32 Restrictions of access

A person shall not establish or form a road or a means of access to any dedicated road under the Council's control unless the Council is satisfied that it will not have an adverse impact on the safety or efficiency of the road system.

33 Acquisition of land

- (1) This clause applies to land within Zone No 5 (a) or 8 (b).
- (2) The owner of any land within a zone specified in column 1 of the Table to this subclause may, by notice in writing, require the public authority specified in column 2 of the Table opposite that zone to acquire that land.

Table

Column 1	Column 2
Zone No 5 (a)	Roads and Traffic Authority
Zone No 8 (b) (except where otherwise specified in this Table)	National Parks and Wildlife Service
Zone No 8 (b) and identified as Portion 393 or 395, Broadwater Beach, Parish of Riley	Minister administering the <i>Environmental Planning and Assessment Act 1979</i>

- (3) Upon receipt of a notice referred to in subclause (2), the public authority concerned shall, subject to subclause (4), acquire that land.

- (4) On receipt of such a notice referred to in subclause (2) for land within Zone No 5 (a), the Roads and Traffic Authority must acquire the land if:

- (a) the land is vacant, or

- (b) the land is not vacant and:

- (i) the land is included in the 5 year works program of the Roads and Traffic Authority current at the time of receipt of the notice, or

- (ii) the Roads and Traffic Authority has decided not to give concurrence under subclause (5) to an application for consent to the carrying out of development on the land, or

- (iii) the Roads and Traffic Authority is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time,
- but the Roads and Traffic Authority is not required to acquire the land if it might reasonably be required to be dedicated for a public road.
- (5) A person may, with the consent of the Council and the concurrence of the Roads and Traffic Authority, carry out development on land within Zone No 5 (a):
- (a) for a purpose for which development may be carried out on land in an adjoining zone, or
- (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (6) In deciding whether to grant concurrence to proposed development under subclause (5), the Roads and Traffic Authority must take the following into consideration:
- (a) the need to carry out development on the land for the purpose for which the land is reserved,
- (b) the imminence of acquisition,
- (c) the likely additional cost to the Roads and Traffic Authority resulting from the carrying out of the proposed development.
- (7) Land acquired under subclause (3) may be developed, with the consent of the Council, until such time as it is required for the purpose for which it was acquired.
- (8) The Council shall not, in pursuance of this clause, consent to any development on land within Zone No 8 (b) prior to notifying the acquiring authority identified in subclause (2) and taking into consideration any representation made by those authorities.
- (9) In this clause:
- vacant land*** means land on which, immediately before the day on which a notice, under subclause (2) is given, there were not buildings other than fences.

34 Buffer zone

- (1) The Council shall not consent to any development within 500 metres of land within Zone No 1 (e) unless it is satisfied that carrying out the development will not detrimentally affect the future winning of extractive material.
- (2) The Council shall not consent to any development within 500 metres of an operating sewerage treatment works unless it is satisfied that carrying out the development will not detrimentally affect the future operation or expansion of the sewerage treatment works.

34A Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) Land described in Part 1 of Schedule 4 is land that was classified, or reclassified, as operational land before the application of the amendments made by the *Local Government Amendment (Community Land Management) Act 1998* to section 30 of the *Local Government Act 1993*.
- (3) Land described in Part 2 of Schedule 4:
 - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as the case requires, as operational land.
- (4) Land described in Columns 1 and 2 of Part 3 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those specified opposite the land in Column 3 of Part 3 of Schedule 4.
- (5) In this clause, ***the relevant amending plan***, in relation to land described in Part 3 of Schedule 4, means the local environmental plan cited at the end of the description of the land.
- (6) Before the relevant amending plan inserted the description of land into Part 3 of Schedule 4, the Governor approved of subclause (4) applying to the land.

Division 2 Administration provisions

35 Developments which must be advertised

- (1) This clause applies to development specified in subclause (2), not being development which, in the opinion of the Council, involves minor alterations or additions to an existing building or work.
- (2) Pursuant to section 30 (4) of the Act, applications for consent to carrying out development for the purposes of the following shall be advertised in accordance with the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act:
 - (a) (Repealed)
 - (b) liquid fuel depots,

- (c) hospitals,
- (d) schools in Zone No 1 (c),
- (e) motels, hotels and caravan parks,
- (f) aerodromes,
- (g) the substantial demolition of a heritage item.

35A Notification of certain applications—dual occupancy and residential flat buildings

- (1) This clause applies to development within Zone No 2 (v) for the purposes of dual occupancy or residential flat buildings (being buildings within the meaning of clause 51 of the *North Coast Regional Environmental Plan 1988*) which do not exceed 14 metres in height.
- (2) Where an application is made for consent to effect development to which this clause applies, the Council shall:
 - (a) serve written notice of the application on such persons as appear to it to own the land adjoining the site of the proposed development, and on such other persons as appear to it to own land the enjoyment of which, in the opinion of the Council, may be detrimentally affected if the development the subject of the application is carried out, and
 - (b) serve written notice of the application on such public authorities which, in the opinion of the Council, may or appear to it to have an interest in the determination of that application.
- (3) A notice referred to in subclause (2) shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of the Council, may be inspected at the office of the Council, at any time during the hours specified in the notice (being the business hours of the Council) for a period of 14 days from the day on which notice of the application is served in accordance with that subclause.
- (4) The Council shall permit any person to inspect the application during the period referred to in subclause (3) and any plans and specifications relating to the development referred to in the notice and in the custody of the Council and to make extracts or copies from them.
- (5) At any time within the period during which an application may be inspected under subclause (4), objection to the granting of the application may be made in writing to the Council by any person or public authority:
 - (a) on whom the notice of the application has been served in accordance with paragraph (a) or (b) of subclause (2), or

(b) who contends that the existing or future amenity will be detrimentally affected if the development the subject of the application is carried out.

(6) The Council:

(a) shall not grant the application until after the expiration of the period during which an objection to the granting of the application may be made under subclause (5), and

(b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application.

(7) This clause does not apply to:

(a) proposed development involving alterations or additions to any existing development where the alterations or additions are of a minor nature and do not to any significant extent adversely affect the existing or likely future amenity of the neighbourhood, or

(b) any proposed subdivision of land.

36 Irregular zone boundaries

(1) Where a boundary between two zones as indicated on the map does not correspond with a cadastral boundary, the Council may determine a precise boundary following a survey.

(2) In determining a zone boundary under subclause (1), the Council shall have regard to the characteristics of the land as indicated by the survey, and the relationship of those characteristics with the objective of the zones on either side of the boundary.

(3) A boundary fixed under this clause shall generally approximate the position of the former boundary as indicated on the map.

(4) Where a zone boundary is fixed under this clause, land shall be deemed to be within the appropriate zone as determined by the Council and not within any other zone.

37 Minor variations of zoning boundaries

(1) This clause applies to land which is within 20 metres of a boundary between any two of the zones referred to in items 1, 2, 4, 5 and 6 of the Table to clause 8.

(2) Development may, with the consent of the Council, be carried out on land within a zone referred to in subclause (1) for any purpose for which development may be carried out on land in any other zone referred to in subclause (1) and adjoining that land.

- (3) The Council shall not consent to the carrying out of development referred to in subclause (2) unless, in the opinion of the Council, the carrying out of the development is desirable due to design, ownership, servicing or similar requirements relating to the optimum development of land to which this clause applies.

38 Suspension of certain laws etc

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, any agreement or covenant imposing restrictions as to the use of land for certain purposes or the erection or cladding or use of buildings for certain purposes, to the extent necessary to serve that purpose, shall not apply to development carried out in accordance with this plan.
- (2) Pursuant to section 28 of the Act, before the making of this clause the Governor approved of subclause (1).

39 Temporary use of land

Notwithstanding any other provision of this plan, the Council may grant consent to the carrying out of development on any land for any purpose for a maximum period of 28 days, whether consecutive or non-consecutive, in any one year, if the Council is satisfied that the proposed use is compatible with the objectives of the zone in which it is located.

40 Outdoor advertising

- (1) The aims of this clause are to ensure that outdoor advertising:
 - (a) conveys advertisers' messages and images while complementing and conforming to the built environment and the character of the surrounding locality, and
 - (b) does not adversely affect the area in which it is located in terms of appearance, size, illumination, overshadowing or in any other way, and
 - (c) does not lead to visual clutter through the proliferation of signs.
- (2) The Council shall not consent to the erection of an advertisement unless it has first considered the following:
 - (a) the aims of this clause,
 - (b) any submission made by the Roads and Traffic Authority for an advertisement proposed along, or adjacent to, a main road.
- (3) Notwithstanding any other provision of this plan, the following advertisements may be erected, without consent:
 - (a) an advertisement within premises which is not visible (due to built form, topography, landscape or the like) from outside those premises, but not an

advertisement on a heritage item or on premises within a heritage conservation area,

(b) a business identification sign on land:

(i) within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c), 1 (d), 1 (e), 2 (v), 4 (a), 7 (b), 7 (c) or 7 (f), in association with a home occupation or home industry use of the land, but only if:

- the sign is not erected on a heritage item, and
- the sign does not exceed 0.75 square metre in area,

or

(ii) within Zone No 2 (v), in association with a commercial or business use of the land, but only if it is not erected on a heritage item and it meets any of the following conditions:

- if it is a sign located at a point below the level of the awning of a shop and which will result in no more than 50% of the area of the shopfront being covered with signs,
- if it is located on a shop having no awning, and it is a sign or one of a number of signs located at a point no higher than 4.6 metres above the natural ground level at that point or below the level of the bottom of the first floor window, whichever is the lower, and which will result in no more than 50% of the area of the shopfront being covered with signs,
- if it is an awning fascia sign,
- if it is a suspended under-awning sign, but there is not more than one for every 3 metres of shopfront length, each being a sign not exceeding 2.5 metres in length and 0.5 metre in height and at no point less than 2.6 metres from ground level,

(iii) within Zone No 4 (a) or 2 (v), in association with an industrial use of the land, but only if it does not exceed 10 square metres in area and covers no more than 20% of the area of the facade of the building,

(c) a real estate sign on any land, but only if it:

- (i) does not exceed 2.5 square metres in area, except where it is a sign relating to commercial or industrial premises, and
- (ii) does not exceed 4.5 square metres in area, where it is a sign relating commercial or industrial premises, and
- (iii) does not have any returns exceeding 180 millimetres, and

- (iv) is not displayed for more than 14 days after the letting or completion of the sale of the land, place or premises to which the sign relates, and
- (v) is not an illuminated sign of any kind,
- (d) a public notice displayed by a public authority giving information or directions about the services provided by it,
- (e) an advertisement displaying a message changed from that displayed by a previously lawful advertisement,
- (f) a sign behind the glass line of a shop window,
- (g) an advertisement on a motor vehicle used principally for conveying goods or passengers,
- (h) a temporary sign on any land, but only if:
 - (i) it is not displayed earlier than 28 days before the event to which it relates is to take place, and
 - (ii) it is removed within 14 days after that event, and
 - (iii) it is positioned and orientated so that it does not impede pedestrian and vehicular traffic movement,
- (i) an advertisement displayed by a public authority, which includes:
 - a sign directing vehicular or pedestrian traffic, and
 - a road safety or advisory sign, and
 - identification signs for streets, roads, localities, villages, towns, public places or the like.

Schedule 1 Heritage items

(Clause 5)

Assessment Numbers	Description of Item	Location
	BROADWATER	
3016	Roman Catholic Church	FP 348697, 194–198 Pacific Highway
	CORAKI	
577	ANZ Bank	Pt Lot 4, Section 24, 105 Richmond Terrace
572	Club Hotel	Pt Lot 1, Section 25, 93–95 Richmond Terrace

N/A	Coraki Bridge	Boundary with Lismore City Council, over Richmond River, Lismore Road, MR 148
562	Coraki Hotel	Lot 1, Section 26, 67-69 Richmond Terrace
N/A	Coraki General Cemetery	Henderson Street
568	Coraki Post Office	Lot 3, Section 25, 81-83 Richmond Terrace
569	Doctor's Surgery and Residence	Lot 2, Section 25, 85-89 Richmond Terrace
398	Dwelling	Lot 91, DP 550000, 19 Donaldson Street
314	Milton House	Lot 22, DP 805220, 3 Adams Street
573	Pharmacy Building	Lot 2, DP 590618, 97-99 Richmond Terrace
586	Police Station	Lots 5 & 6, Section 23, 125-129 Richmond Terrace
240	St Joseph's Catholic Church, former convent and original school building	Lots 3 & 5/8, Section 63, 45-51 Adams Street
518.01	St Mary Magdalene Anglican Church	Lot 72, DP 802851, 45-47 Queen Elizabeth Drive
518.02	Dwelling	Lot 71, DP 802851, 41-43 Queen Elizabeth Drive
230	Woodburn Shire Council Offices	Lots 2 & 11, Section 67, 16-18 Adams Street
495.1	Yabsley House	Lot 2, DP 530508, 108 Queen Elizabeth Drive
EVANS HEAD		
1031	Illawong Hotel	Lot 8, DP 11489, 15-19 Oak Street
WOODBURN		
1649	St Joseph's Catholic Church	Part Portion 19, Parish of Bungawalbin, 20 Woodburn-Coraki Road (MR 145)
3005	Court House/Police Station	Lot 1, Section 16, 89-91 River Street
1472	Post Office	Lot 5, DP 616492, 85 River Street
1648.1	Riverview House	Lot 2, DP 958544, Parish of Bungawalbin 30 Woodburn-Coraki Road (MR 145)
N/A	Woodburn General Cemetery	Lots 2/10, Section 16, Short Street
RURAL AREAS		
2628.535	Disputed Plain Homestead	Pt Portion 76, DP 376091, 1480 Lismore-Kyogle Road, Bentley, Parish of Tomki
2821.16	Killarney Homestead	Portion 48, 50 Perkins Bridge Road, Tatham, Parish of Woram

1593.01	Main Camp Homestead	Portion 17, 840 Main Camp Road, Myrtle Creek, Parish of Darke
2629.1	Tomki Meathouse & Barn	Lot 17, DP 6938, 2135 Bruxner Highway, Clovass, Parish of Tomki
3025	Riley's Hill Boat Dock	Rileys Hill Dock Road, Parish of Riley
2821.19	Tatham Church	Pt Portion 49, 10 Tatham-Ellangowan Road, Tatham, Parish of Woram

Schedule 2 (Repealed)

Schedule 3 Development to be setback from main roads

(Clause 20)

Abattoirs; aerodromes; agricultural bulk stores; animal establishments; bus depots; caravan parks; child care centres; clubs; educational establishments; extractive industries; general stores; generating works; heliports; home industries; hospitals; industries associated with and dependent upon extractive industries; institutions; junk yards; liquid fuel depots; mines; motels; places of assembly; places of worship; racecourses; recreation areas; recreation establishments; recreation vehicle areas; refreshment rooms; research establishments; retail plant nurseries; roadside stalls; rural home industries; sawmills; sportsgrounds; showgrounds; stock and sale yards; tourist facilities; transport terminals.

Schedule 4 Classification and reclassification of public land as operational land

(Clause 34A)

Part 1 Land classified, or reclassified, before the application of amendments made to s 30 of LGA 1993

Coraki

Lagoon Road Lot 403, DP 802985, Coraki, Parish of West Coraki, as shown edged heavy black on the map marked "*Richmond River Local Environmental Plan 1992 (Amendment No 10)*".

Evans Head

Park Street Lot 1, DP829998, Parish of Riley, as shown edged heavy black on the map marked "*Richmond River Local Environmental Plan 1992 (Amendment No 3)*".

Part 2 Interests not changed

Part 3 Interests changed

Column 1

Column 2

Column 3

Locality	Description	Trusts etc not discharged
New Italy	<p>Corner of Swan Bay-New Italy Road and Pacific Highway</p> <p>Lot 1, DP 207390, Parish of Donaldson, County of Richmond, as shown edged heavy black on the map marked "<i>Richmond River Local Environmental Plan 1992 (Amendment No 17)</i>"—Richmond River Local Environmental Plan 1992 (Amendment No 17).</p>	Nil.

Schedule 5 Development for certain additional purposes

(Clause 27A)

Part Lot 2, DP 616005, New Italy, Parish of Donaldson as shown edged in heavy black on the map marked "*Richmond River Local Environmental Plan, 1992 (Amendment No 6)*", for the purpose of a shop for the sale of tourist information or arts and crafts, or both, provided no direct vehicular access is permitted onto the Pacific Highway from the subject land.

Lot 1, DP 555032, closed road and the adjoining portion of Richmond River, at Swan Bay, Parish of Bungawalbin, as shown edged heavy black on the map marked "*Richmond River Local Environmental Plan 1992 (Amendment No 9)*", industry associated with the construction and maintenance of water based craft and associated infrastructure.

Portion 272, Morton Street, The Glebe, Coraki—the erection of a dwelling-house.

Lot 1, DP 310756, Lot A, DP 389418, Lot A, DP 397946, Lots 405 and 406, DP 632493, Lot 3, DP 701197, Lot 402, DP 802985, Lot 403, DP 802985 and Lots 1 and 2, DP 954593, Lagoon Road, Coraki, known as "Peterson's Quarry"—industry associated with the provision of public services and infrastructure, and public buildings.