

# Nymboida Local Environmental Plan 1986

[1986-311]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Nymboida Local Environmental Plan 1986



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	5
1 Name of plan .....	5
2 Aims, objectives etc.....	5
3 Land to which plan applies .....	5
4 Relationship to other environmental planning instruments .....	5
5 Interpretation .....	6
6 Adoption of model provisions .....	8
7 Consent authority .....	8
<b>Part 2 General restrictions on development of land</b> .....	8
8 Zones indicated on the map .....	8
9 Zone objectives and development control table.....	9
<b>Part 3 Special provisions relating to particular zones</b> .....	18
<b>Division 1 Special provisions relating to Zone No 1 (a)</b> .....	18
10 Subdivision of land within Zone No 1 (a) .....	18
11 Erection of dwelling-houses on land within Zone No 1 (a).....	19
12 (Repealed) .....	20
<b>Division 2 Special provisions relating to Zone No 1 (b)</b> .....	20
13 Subdivision of land within Zone No 1 (b) .....	20
14 Erection of dwelling-house on land within Zone No 1 (b) .....	21
15 (Repealed) .....	22

<b>Division 3 Special provisions relating to Zone No 1 (c)</b> .....	22
16 Subdivision of land within Zone No 1 (c) .....	22
17 Erection of dwelling-houses on land within Zone No 1 (c) .....	22
18 (Repealed) .....	23
<b>Division 4 Special provisions relating to Zone No 1 (d)</b> .....	23
19 Subdivision of land within Zone No 1 (d) .....	23
20 Erection of dwelling-houses on land within Zone No 1 (d).....	23
<b>Division 5 Special provisions relating to Zone No 1 (e)</b> .....	24
21 Subdivision of land within Zone No 1 (e) .....	24
22 Erection of dwelling-houses on land within Zone No 1 (e).....	25
<b>Division 6 Special provisions relating to Zone No 1 (f)</b> .....	26
23 Subdivision of land within Zone No 1 (f).....	26
24 Erection of dwelling-houses on land within Zone No 1 (f).....	27
<b>Division 7 Special provisions relating to Zone No 2 (a)</b> .....	28
25 Subdivision of land within Zone No 2 (a) .....	28
26 Development on certain land at Dalmorton .....	28
27 Dwelling-houses on certain land at Eatonsville .....	28
<b>Division 8 Special provisions relating to Zone No 3 (a)</b> .....	29
28 Certain development on land within Zone No 3 (a) .....	29
<b>Division 9 Special provisions relating to Zone No 7 (a)</b> .....	29
29 Subdivision of land within Zone No 7 (a) .....	29
<b>Division 10 Special provisions relating to Zone No 7 (d)</b> .....	29
30 Subdivision of land within Zone No 7 (d) .....	29
31 Erection of dwelling-houses on land within Zone No 7 (d).....	30
32 Statement of environmental effects relating to development within Zone No 7 (d).....	31
<b>Part 4 Special provisions relating to the whole Shire</b> .....	31
33 Items of environmental heritage .....	31
34 Development in the vicinity of items of environmental heritage.....	32

35 Conservation incentive relating to heritage items.....	32
36 Heritage Council to be given prior notice of demolition consent.....	33
37 Advertising of heritage applications.....	33
38 Replacement of existing dwelling-house.....	33
39 Development on land which fronts an arterial road.....	34
40 Caravan parks.....	34
41 Development under Forestry Act 1916.....	34
42 Flood prone land.....	34
43 Community use of school sites etc.....	34
44 Erection of dwelling-houses on certain land.....	35
45 Provision of services.....	35
46 Development for certain additional purposes.....	35
47 What is exempt and complying development?.....	35
<b>Schedule 1 Items of environmental heritage.....</b>	<b>36</b>
<b>Schedule 2 Allotments subject to exception.....</b>	<b>36</b>
<b>Schedule 3 Development for certain additional purposes.....</b>	<b>37</b>

# Nymboida Local Environmental Plan 1986



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Nymboida Local Environmental Plan 1986*.

### 2 Aims, objectives etc

This plan aims:

- (a) to consolidate the provisions of *Interim Development Order No 1—Shire of Nymboida* and Nymboida Local Environmental Plans Nos 1, 2, 4, 5, 6, 7 and 8 in a single local environmental plan,
- (b) to provide a comprehensive plan for the development of lands within the Shire of Nymboida over a period of 10 years,
- (c) to identify, conserve and enhance the environmental heritage of the Shire, and
- (d) to recognise the need of, and to provide for, multiple occupancy on certain lands within the Shire.

### 3 Land to which plan applies

This plan applies to the whole of the land within the Shire of Nymboida as shown on the map, with the boundaries as indicated on the map, being those of the Shire of Nymboida.

### 4 Relationship to other environmental planning instruments

- (1) This plan repeals the environmental planning instruments referred to in subclause (2).
- (2) The following environmental planning instruments are repealed:
  - (a) *Interim Development Order No 1—Shire of Nymboida*,
  - (b) Nymboida Local Environmental Plans Nos 1, 2, 4, 5, 6, 7 and 8,
  - (c) such other deemed environmental planning instruments and local environmental plans as, immediately before the appointed day, applied to the land to which this

plan applies, to the extent to which those instruments and plans so applied to that land.

## 5 Interpretation

- (1) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:

**appointed day** means the day on and from which this plan takes effect.

**aquaculture** means the commercial cultivation of the resources of tidal or inland waters, and includes farms established by the inundation, or further inundation, by water of a portion of land for the propagation or rearing of marine or freshwater fish or plants or other organisms (including crustaceans), but does not include commercial fishing.

**clear felling of trees and vegetation** means the clearing of all or most of the trees and vegetation on any parcel of land so that not more than 25 trees per hectare and 10 per cent of the vegetation remains over the area of the parcel on a scattered or clustered basis.

**commercial rabbit farming** means the keeping, under intensive farming conditions, of 20 or more breeding female rabbits for the production of meat, fur, skin or other products, including breeding for live animal sales.

**commercial rafting and canoeing** means rafting and canoeing organised and conducted on a commercial basis by persons who are, in the opinion of the Council, suitably qualified to conduct such a business.

**Council** means the Council of Pristine Waters, subject to subclause (4).

**demolition**, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of that building or work, in whole or in part.

**flood prone land** means land which is below the 1 in 100 year flood level.

**food co-operative** means a building or place used for the collection and distribution of food products, fruits, vegetables and grains to members of a co-operative, whether by sale or otherwise.

**item of environmental heritage** means a building, work, relic or place of historical, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance for the Shire of Nymboida, being a building, work, relic or place:

- (a) described in Schedule 1, or
- (b) identified as such in a development control plan.

**land parcel** means the aggregation of all adjoining or adjacent land held in the same

ownership.

**primary produce store** means a building or place used for the purpose of selling, exposing or offering for sale by retail, primary produce, goods, merchandise or materials associated with rural industries and activities, but does not include a food co-operative.

**relative**, in relation to the owner of land, means the mother, father, mother-in-law, father-in-law, son, daughter, brother or sister of that owner.

**relic** means any deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to 1 January 1900 of the area of the Council.

**renovation**, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work,  
or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair or the painting, plastering or other decoration of the outside of the building or work.

**secondhand dealership** means a building or place used primarily for the purpose of the sale of secondhand, used or repaired items and materials but does not include a building or place used for a purpose elsewhere defined in this plan.

**sporting and open space facilities** means facilities provided for the sporting and recreational enjoyment of the community and includes sports fields, tennis courts, golf courses, swimming pools, recreation areas, reserves, gardens and the like, together with associated public amenities and car parks.

**the map** means the map marked “*Nymboida Local Environmental Plan 1986*”, as amended by the maps or, if any sheets of maps are specified, by the specified sheets of the maps marked as follows:

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

*Nymboida Local Environmental Plan 1986 (Amendment No 4)* (consisting of 2 sheets)

**used vehicle and machinery lot** means a building or place used for the display or sale of used vehicles and machinery, but does not include the dismantling and storage of automobiles or other vehicles or machinery or the sale of parts thereof.

**warehouse** means a building or place used for the storage of goods, merchandise, machinery or materials pending their sale or distribution to persons engaged in the

retail trade.

- (2) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:
  - (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.
- (3) In subsection (1), a reference in the definition of **flood prone land** to the 1 in 100 year flood level, in relation to land, is a reference to the height above Australian Height Datum to which the Council has determined that a 1 in 100 year flood affecting that land is likely to rise.
- (4) In relation to land within the local government area of Clarence Valley, a reference in this plan to the Council includes a reference to Clarence Valley Council.

## 6 Adoption of model provisions

- (1) The *Environmental Planning and Assessment Model Provisions 1980*, except for:
  - (a) the definitions of **map** and **warehouse** in clause 4 (1), and
  - (b) clauses 6, 29, 30, 34, 35 (c) and 36,are adopted for the purposes of this plan.
- (2) For the purposes of this plan, clause 35 of the *Environmental Planning and Assessment Model Provisions 1980* shall not apply in relation to the carrying out of development on land within Zone No 7 (a) or 7 (d).

## 7 Consent authority

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

## Part 2 General restrictions on development of land

### 8 Zones indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone:

Zone No 1 (a) (Special Rural)—coloured light brown with heavy black edging and



lettered “1 (a)”.

Zone No 1 (b) (General Rural)—coloured light brown with heavy black edging and lettered “1 (b)”.

Zone No 1 (c) (Small Holdings)—coloured light brown with heavy black edging and lettered “1 (c)”.

Zone No 1 (d) (Small Holdings)—coloured light brown with heavy black edging and lettered “1 (d)”.

Zone No 1 (e) (Small Holdings)—coloured light brown with heavy black edging and lettered “1 (e)”.

Zone No 1 (f) (Forests)—coloured light brown with heavy black edging and lettered “1 (f)”.

Zone No 2 (a) (Villages and Townships)—uncoloured with heavy black edging and lettered “v”.

Zone No 3 (a) (Neighbourhood Business)—coloured medium blue with heavy black edging and lettered “3 (a)”.

Zone No 7 (a) (Wetlands)—coloured orange with heavy black edging and lettered “7 (a)”.

Zone No 7 (d) (Scenic Protection)—coloured orange with heavy black edging and lettered “7 (d)”.

Zone No 8 (a) (Existing National Parks)—uncoloured with heavy black edging and lettered “8 (a)”.

## **9 Zone objectives and development control table**

(1) The objectives of a zone specified in the Table to this clause are set out in that Table under the heading “Objectives of zone” appearing in the matter relating to the zone.

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

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

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

(c) for which development is prohibited,

on land within a zone specified in the Table to this clause are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.

- (3) In considering any development application made under this plan, the Council shall take into account whether the carrying out of the development the subject of the application is consistent with the objectives of the zone within which the development is to be carried out.

Table

## **Zone No 1 (a) (Special Rural)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to encourage agriculture on the better quality agricultural land by generally allowing development for that purpose to be carried out without consent,
- (b) to protect the better quality agricultural land by requiring development consent for the carrying out of development for the purposes of the intensive keeping of animals, and
- (c) to encourage development which is related to the agricultural use of land within the zone.

### **2 Without development consent**

Agriculture (other than commercial poultry keeping, goat keeping, lot feeding of livestock and pig keeping); fire hazard reduction works; forestry; public utility undertakings.

### **3 Only with development consent**

Advertising structures; aquaculture; cemeteries; child care centres; commercial poultry keeping; commercial rabbit farming; commercial rafting and canoeing; community halls; dwelling houses; educational establishments; extractive industries; fire fighting facilities; flood protection works; food co-operatives; goat keeping; helipads; home industries; institutions; light industries; lot feeding of livestock; mines; pig keeping; plant nurseries; primary produce stores; public utility undertakings; recreation establishments; roads; roadside stalls; rural industries; saleyards; sawmills; secondhand dealerships; stables; tourist facilities; utility installations; warehouses; waste disposal.

### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter

relating to this zone.

## **Zone No 1 (b) (General Rural)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to set aside certain land for agricultural and associated purposes, and
- (b) to encourage development for the purposes of rural settlement on land which is suitable for that purpose, and
- (c) to permit development for tourism and recreational purposes covering a wide range of activities which are compatible with the natural environment and character of the area.

### **2 Without development consent**

Agriculture (other than commercial poultry keeping, goat keeping, lot feeding of livestock and pig keeping); fire hazard reduction works; forestry; public utility undertakings.

### **3 Only with development consent**

Advertising structures; aquaculture; bus depots; caravan parks; car repair stations; cemeteries; child care centres; clubs; commercial dog breeding and kennelling; commercial poultry keeping; commercial rabbit farming; commercial rafting and canoeing; community halls; dwelling houses; educational establishments; extractive industries; fire fighting facilities; flood protection works; food co-operatives; general stores; goat keeping; helipads; home industries; home occupations; institutions; lot feeding of livestock; mines; motor vehicle workshops; pig keeping; plant nurseries; primary produce stores; public utility undertakings; recreation establishments; recreational facilities; refreshment rooms; road transport terminals; roads; roadside stalls; light industries; saleyards; sawmills; secondhand dealerships; service stations; sporting and open space facilities; stables; storage sheds (commercial); taverns; tourist facilities; used vehicle and machinery lots; utility works; warehouses; waste disposal; wrecking yards.

### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

## **Zone No 1 (c) (Small Holdings)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to permit the use of the land within this zone for the purposes of small holdings and a range of uses which are compatible with the maintenance and enhancement of the rural parkland character of the land, and
- (b) to encourage development for the purpose of closer rural parkland settlement on land which is suitable for such a purpose.

### **2 Without development consent**

Agriculture (other than commercial dog breeding or kennelling, commercial horse stables, commercial poultry keeping, goat keeping, lot feeding of livestock and pig keeping); fire hazard reduction works; forestry; public utility undertakings.

### **3 Only with development consent**

Advertising structures; child care centres; community halls; dams; dwelling houses; educational establishments; fire fighting facilities; flood protection works; home industries; home occupations; light industries; plant nurseries (retail); public utility undertakings; recreational facilities; roads; roadside stalls; sporting and open space facilities; stables; utility installations (other than gas holders or generating works).

### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

## **Zone No 1 (d) (Small Holdings)**

### **1 Objectives of zone**

The objectives of this zone are:

- (a) to set aside certain land for the purposes of small holdings and hobby farms within areas that are suitable for that type of development, and
- (b) to ensure that development within this zone is compatible with the anticipated rural development of the land.

## **2 Without development consent**

Agriculture (other than commercial dog breeding or kennelling, commercial horse stables, commercial poultry keeping, goat keeping, lot feeding of livestock and pig keeping); fire hazard reduction works; forestry; public utility undertakings.

## **3 Only with development consent**

Advertising structures; aquaculture; bus depots; caravan parks; car repair stations; child care centres; clubs; commercial dog breeding or kennelling; commercial and private horse stables; commercial rabbit farming; community halls; dams; dwelling houses; educational establishments; extractive industries; fire fighting facilities; flood protection works; food co-operatives; goat keeping; home industries; home occupations; light industries; plant nurseries; primary produce stores; public utility undertakings; recreation establishments; recreational facilities; road transport terminals; roads; roadside stalls; rural industries; secondhand dealerships; sporting and open space facilities; storage sheds (commercial); used vehicle and machinery lots; utility installations; warehouses.

## **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

### **Zone No 1 (e) (Small Holdings)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to set aside certain land for agricultural and related purposes and for housing within an acceptable rural environment, and
- (b) to promote the development of cottage industry and crafts through closer rural settlement.

#### **2 Without development consent**

Agriculture (other than commercial poultry keeping, goat keeping, lot feeding of livestock and pig keeping); fire hazard reduction works; forestry; public utility undertakings.

### **3 Only with development consent**

Advertising structures; aquaculture; child care centres; commercial dog breeding or kennelling; commercial horse stables; commercial poultry keeping; commercial rabbit farming; commercial rafting and canoeing; dwelling houses; educational establishments; extractive industries; flood protection works; food co-operatives; goat keeping; home industries; home occupations; light industries; plant nurseries; primary produce stores; public utility undertakings; recreation establishments; road transport terminals; roads; roadside stalls; rural industries; secondhand dealerships; sporting and open space facilities; used vehicle and machinery lots; utility works; warehouses.

### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

## **Zone No 1 (f) (Forests)**

### **1 Objectives of zone**

The objective of this zone is to set aside certain land for the purposes of forestry activities and ancillary uses.

### **2 Without development consent**

Agriculture; fire hazard reduction works; forestry; public utility undertakings.

### **3 Only with development consent**

Advertising structures; aquaculture; camping areas; commercial rabbit farming; commercial rafting and canoeing; dwelling-houses; extractive industries; fire fighting facilities; flood protection works; helipads; home industries; mines; picnic areas; public utility undertakings; recreation establishments; roads; rural industries; sawmills; utility installations; any other use authorised by a Crown lease.

### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

## **Zone No 2 (a) (Villages and Townships)**

## **1 Objectives of zone**

The objectives of this zone are:

- (a) to set aside land for the purposes of housing and associated facilities within an acceptable residential environment, and
- (b) to set aside, by means of a development control plan, specific areas within the zone for housing, open space and neighbourhood business.

## **2 Without development consent**

Public utility undertakings.

## **3 Only with development consent**

Advertising structures; bee keeping; child care centres; clubs; commercial premises; community centres; dwelling houses; educational establishments; fire fighting facilities; flood protection works; food co-operatives; general stores; home occupations; hotels; light industries; motels; places of public worship; plant nurseries; primary produce stores; professional consulting rooms; public buildings; public utility undertakings; recreational facilities; refreshment rooms; roads; service stations; shops; sporting and open space facilities; taverns; used vehicle and machinery lots; utility works (other than gas holders or generating); warehouses.

## **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

### **Zone No 3 (a) (Neighbourhood Business)**

#### **1 Objectives of zone**

The objective of this zone is to set aside certain land to provide for a wide range of retail, commercial and professional facilities.

#### **2 Without development consent**

Public utility undertakings.

#### **3 Only with development consent**

Advertising structures; child care centres; commercial premises; dwelling-houses used in conjunction with a purpose permitted only with development

consent in this zone; flood protection works; hotels; primary produce stores; public buildings; refreshment rooms; service stations; shops; taverns; warehouses.

#### **4 Prohibited**

Any purpose other than a purpose included in item 3 of the matter relating to this zone.

### **Zone No 7 (a) (Wetlands)**

#### **1 Objectives of zone**

The objectives of this zone are:

- (a) to promote the preservation, conservation and enhancement of significant wetland areas in the shire of Nymboida.
- (b) to prohibit development within this zone which is likely to have a detrimental effect on the habitat, landscape and scenic quality of the locality, and
- (c) to enable the development of public works where that development does not have significant detrimental effect on the habitat, landscape or scenic quality of the locality.

#### **2 Without development consent**

Agriculture, not including clearing of trees or vegetation (other than noxious weeds); drainage; excavation or filling.

#### **3 Only with development consent**

Clearing of trees and vegetation; drainage; excavation; filling; public utility undertakings; waste disposal.

#### **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

### **Zone No 7 (d) (Scenic Protection)**

#### **1 Objectives of zone**

The objectives of this zone are:



- (a) to preserve valley ridgeline and prominent topography which is of high aesthetic value in parts of the Boyd, Kangaroo, Mann and Nymboida Rivers' valleys, being areas which are relatively undeveloped and, due to their exposure, warrant environmental protection, and
- (b) to permit development for tourism and recreational purposes covering a wide range of activities which are compatible with the natural environment and character of the area.

## **2 Without development consent**

Agriculture (other than dog breeding, boarding kennels, commercial poultry keeping, goat keeping, pig keeping, lot feeding of livestock, clearfelling of trees and vegetation other than noxious weeds); fire hazard reduction works.

## **3 Only with development consent**

Advertising structures; camping grounds; caravan parks; child care centres; clearfelling of trees and vegetation; commercial rafting and canoeing; community halls; dwelling-houses; extractive industries; fire fighting facilities; flood protection works; food co-operatives; forestry; general stores; goat keeping; helipads; home industries; lot feeding of livestock; mining; picnic grounds; pig keeping; public utility undertakings; recreation establishments; refreshment rooms; roads; sawmills; stables; tourist facilities; utility installations; waste disposal.

## **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3 of the matter relating to this zone.

### **Zone No 8 (a) (Existing National Parks and Nature Reserves)**

#### **1 Objectives of zone**

The objective of this zone is to facilitate development of existing National Parks and Nature Reserves.

#### **2 Without development consent**

Any purpose.

#### **3 Only with development consent**

Nil.

## **4 Prohibited**

Nil.

### **Part 3 Special provisions relating to particular zones**

#### **Division 1 Special provisions relating to Zone No 1 (a)**

##### **10 Subdivision of land within Zone No 1 (a)**

- (1) A person shall not subdivide land within Zone No 1 (a) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 1 (a) where each allotment of land to be created by the subdivision will have:
  - (a) an area of not less than 100 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is or is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, a frontage to that road of not less than 400 metres.
- (3) Subject to subclause (4), the Council may consent to the subdivision of a land parcel within Zone No 1 (a) (not being an allotment having an area of less than 20 hectares) to create an allotment of not more than 2 hectares but not less than 8 000 square metres, being an allotment not having frontage to a main road, if the Council is satisfied that:
  - (a) the owner of the parcel at the time of the application owned the parcel continuously since 24 August 1973,
  - (b) a dwelling-house is or will be erected on the allotment, and
  - (c) the dwelling-house will be actually occupied by the owner of the land at the time of the application or a relative of that owner.
- (4) The Council shall not grant consent to a subdivision of land as referred to in subclause (3) if that subdivision would result in the total number of allotments created (whether by one or more subdivisions made at any time on or after the 24 August 1973), from a land parcel in existence on 24 August 1973, exceeding:
  - (a) where the area of the land parcel at 24 August 1973 was less than 40 hectares but not less than 20 hectares—1,
  - (b) where the area of the land parcel at 24 August 1973 was less than 60 hectares but not less than 40 hectares—2, or

(c) where the area of the land parcel at 24 August 1973 was not less than 60 hectares—3.

(5) The Council may consent to the subdivision of land within Zone No 1 (a) so as to create an allotment having an area of less than 100 hectares if the Council is satisfied that:

(a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council, and

(b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used.

### **11 Erection of dwelling-houses on land within Zone No 1 (a)**

(1) A person shall not erect a dwelling-house on land within Zone No 1 (a) unless no other dwelling-house exists on the land and the land:

(a) is an allotment created by subdivision having an area of not less than 100 hectares,

(b) is an allotment created by subdivision in accordance with clause 10 (3),

(c) is an allotment created by subdivision in accordance with clause 10 (5) and the dwelling-house is ancillary to the use of the land for a purpose other than agriculture or forestry,

(d) is an allotment created after the appointed day, development consent for which was granted before the appointed day,

(e) is an allotment created by subdivision after 24 August 1973 to which the Council's consent has been given, or

(f) is part of a land parcel at the appointed day, the area of which is not less than 40 hectares, and the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.

(1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.

(1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.

- (2) One dwelling-house in addition to any dwelling-house which may be erected on the allotment or parcel in the absence of this subclause may, with the consent of the Council, be erected on land being an allotment or parcel referred to in subclause (1) having an area of not less than 100 hectares, for each 100 hectares of the allotment or parcel if the Council is satisfied that each additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use, for the purposes of agriculture, of that land or land belonging to the owner which adjoins or is adjacent to that land.

## **12 (Repealed)**

## **Division 2 Special provisions relating to Zone No 1 (b)**

### **13 Subdivision of land within Zone No 1 (b)**

- (1) A person shall not subdivide land within Zone No 1 (b) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 1 (b) where each allotment of land to be created by the subdivision will have:
  - (a) an area of not less than 40 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is or is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, a frontage to that road of not less than 400 metres.
- (3) Subject to subclause (4), the Council may consent to the subdivision of a land parcel within Zone No 1 (b) (not being an allotment having an area of less than 10 hectares) to create an allotment of not more than 2 hectares but not less than 8 000 square metres, being an allotment not having frontage to a main road, if the Council is satisfied that:
  - (a) the owner of the parcel at the time of the application owned the parcel continuously since 24 August 1973,
  - (b) a dwelling-house is or will be erected on the allotment, and
  - (c) the dwelling-house will be actually occupied by the owner of the land at the time of the application or a relative of that owner.
- (4) The Council shall not grant consent to a subdivision of land as referred to in subclause (3) if that subdivision would result in the total number of allotments created (whether by one or more subdivisions made at any time on or after the 24 August 1973), from a land parcel in existence on 24 August 1973, exceeding:

- (a) where the area of the land parcel at 24 August 1973 was less than 20 hectares but not less than 10 hectares—1,
  - (b) where the area of the land parcel at 24 August 1973 was less than 30 hectares but not less than 20 hectares—2, or
  - (c) where the area of the land parcel at 24 August 1973 was not less than 30 hectares—3.
- (5) The Council may consent to the subdivision of land within Zone No 1 (b) so as to create an allotment having an area of less than 40 hectares if the Council is satisfied that:
- (a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council, and
  - (b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used.

#### **14 Erection of dwelling-house on land within Zone No 1 (b)**

- (1) A person shall not erect a dwelling-house on land within Zone No 1 (b) unless no other dwelling-house exists on the land and the land:
- (a) is an allotment created by subdivision having an area of not less than 40 hectares,
  - (b) is an allotment created by subdivision in accordance with subclause (3),
  - (c) is an allotment created by subdivision in accordance with subclause (5) and the dwelling-house is ancillary to the use of the land for a purpose other than agriculture or forestry,
  - (d) is an allotment created after the appointed day, development consent for which was granted before the appointed day, or
  - (e) is an allotment created by subdivision after 24 August 1973 to which the Council's consent has been given.
- (1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.
- (1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.

- (2) One dwelling-house in addition to any dwelling-house which may be erected on the land parcel in the absence of this subclause may, with the consent of the Council, be erected on a land parcel within Zone No 1 (b) for each 10 hectares of the land parcel, if the Council is satisfied that each additional dwelling-house will be actually occupied by a person who is an owner of the land or who is employed or engaged by the owner of the land in the use, for the purposes of agriculture, of that land or land belonging to the owner which adjoins or is adjacent to that land.
- (3) The maximum number of dwelling-houses that may be erected on a land parcel as referred to in this clause is 4.

## **15 (Repealed)**

### **Division 3 Special provisions relating to Zone No 1 (c)**

#### **16 Subdivision of land within Zone No 1 (c)**

- (1) A person shall not subdivide land within Zone No 1 (c) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 1 (c) where each allotment of land to be created by the subdivision will have:
  - (a) an area of not less than 6 000 square metres, and
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the topography and aspect of the land.

#### **17 Erection of dwelling-houses on land within Zone No 1 (c)**

- (1) A person shall not erect a dwelling-house on an allotment of land within Zone No 1 (c) unless no other dwelling-house exists on the allotment and the allotment has an area of not less than 6 000 square metres.
- (2) Where, in relation to a dwelling-house to be erected on an allotment of land within Zone No 1 (c), it is proposed to provide for on-site disposal of wastes, the Council shall, before consenting to the erection of the dwelling-house, require an analysis demonstrating the suitability of the allotment for on-site disposal of wastes, which analysis shall include consideration of the following matters in relation to the allotment and other allotments in the vicinity:
  - (a) slope,
  - (b) ground cover,
  - (c) soil permeability,
  - (d) transpiration factors,

(e) proximity of proposed dwellings to flow lines,

(f) proximity of small lots to larger lots.

- (3) Where public water supply is not available to land within Zone No 1 (c) on which a dwelling-house is proposed to be erected, the Council shall not consent to the erection of that dwelling-house unless it is satisfied that an alternate water supply acceptable to the Council will be provided to the dwelling-house.

## **18 (Repealed)**

## **Division 4 Special provisions relating to Zone No 1 (d)**

### **19 Subdivision of land within Zone No 1 (d)**

- (1) A person shall not subdivide land within Zone No 1 (d) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 1 (d) where each allotment of land to be created by the subdivision has:
- (a) an area of not less than 4 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is or is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, a frontage to that road of not less than 100 metres.
- (3) The Council may consent to the subdivision of land within Zone No 1 (d) so as to create an allotment having an area of less than 4 hectares if the Council is satisfied that:
- (a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council,
  - (b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, the frontage is not less than 100 metres.

### **20 Erection of dwelling-houses on land within Zone No 1 (d)**

- (1) A person shall not erect a dwelling-house on land within Zone No 1 (d) unless no other dwelling-house exists on the land and the land:
- (a) is an allotment created by subdivision having an area of not less than 4 hectares,
  - (b) is an allotment created by subdivision in accordance with clause 19 (3), but only

where the dwelling-house is ancillary to the use of the land for a purpose other than agriculture or forestry,

(c) is an allotment created after the appointed day, development consent for which was granted before the appointed day, or

(d) is an allotment created by subdivision after 24 August 1973 to which the Council's consent has been given.

(1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.

(1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.

(2) Where, in relation to a dwelling-house to be erected on an allotment of land within Zone No 1 (d), it is proposed to provide for on-site disposal of wastes, the Council may, before consenting to the erection of the dwelling-house, require an analysis demonstrating the suitability of the allotment for on-site disposal of wastes, which analysis shall include consideration of the following matters in relation to the allotment and other allotments in the vicinity:

(a) slope,

(b) ground cover,

(c) soil permeability,

(d) transpiration factors,

(e) proximity of proposed dwellings to flow lines,

(f) proximity of small lots to larger lots.

## **Division 5 Special provisions relating to Zone No 1 (e)**

### **21 Subdivision of land within Zone No 1 (e)**

(1) A person shall not subdivide land within Zone No 1 (e) except with the consent of the Council granted in accordance with this clause.

(2) The Council may consent to the subdivision of land within Zone No 1 (e) where each allotment of land to be created by the subdivision has:



- (a) an area of not less than 10 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is or is intended to be used, and
  - (c) where the allotment has a frontage to an arterial road, a frontage to that road of not less than 200 metres.
- (3) The Council may consent to the subdivision of land within Zone No 1 (e) so as to create an allotment of less than 10 hectares if the Council is satisfied that:
- (a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council,
  - (b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, the frontage is not less than 200 metres.

## **22 Erection of dwelling-houses on land within Zone No 1 (e)**

- (1) A person shall not erect a dwelling-house on land within Zone No 1 (e) unless no other dwelling-house exists on the land and the land:
- (a) is an allotment created by subdivision having an area of not less than 10 hectares,
  - (b) is an allotment created by subdivision in accordance with clause 21 (3), but only where the dwelling-house is ancillary to the use of the land for a purpose other than agriculture or forestry,
  - (c) is an allotment created after the appointed day, development consent for which was granted before the appointed day, or
  - (d) is an allotment created by subdivision after 24 August 1973 to which the Council's consent has been given.
- (1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.
- (1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.
- (2) One dwelling-house in addition to any dwelling-house which may be erected on the

land parcel in the absence of this subclause may, with the consent of the Council be erected on a land parcel within Zone No 1 (e) for each 10 hectares of the land parcel if the Council is satisfied that each additional dwelling-house will be actually occupied by a person who is an owner of the land.

- (3) The maximum number of dwelling-houses that may be erected on a land parcel as referred to in this clause is 4.

## **Division 6 Special provisions relating to Zone No 1 (f)**

### **23 Subdivision of land within Zone No 1 (f)**

- (1) A person shall not subdivide land within Zone No 1 (f) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone 1 (f) where each allotment of land to be created by the subdivision will have:
- (a) an area of not less than 100 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is or is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, a frontage to that road of not less than 400 metres.
- (3) Subject to subclause (4), the Council may consent to the subdivision of a land parcel within Zone No 1 (f) (not being an allotment having an area of less than 20 hectares) to create an allotment of not more than 2 hectares but not less than 8 000 square metres, being an allotment not having frontage to a main road, if the Council is satisfied that:
- (a) the owner of the parcel at the time of the application owned the parcel continuously since 24 August 1973,
  - (b) a dwelling-house is or will be erected on the allotment, and
  - (c) the dwelling-house will be actually occupied by the owner of the land or a relative of the owner.
- (4) The Council shall not grant consent to a subdivision of land as referred to in subclause (3) if that subdivision would result in the total number of allotments created (whether by one or more subdivisions made at any time on or after 24 August 1973), from a land parcel in existence on 24 August 1973, exceeding:
- (a) where the area of the land parcel at 24 August 1973 was less than 40 hectares but not less than 20 hectares—1,
  - (b) where the area of the land parcel at 24 August 1973 was less than 60 hectares but

not less than 40 hectares—2, or

(c) where the area of the land parcel at 24 August 1973 was not less than 60 hectares—3.

(5) The Council may consent to the subdivision of land within Zone No 1 (f) so as to create an allotment having an area of less than 100 hectares if the Council is satisfied that:

(a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council, and

(b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used.

#### **24 Erection of dwelling-houses on land within Zone No 1 (f)**

(1) A person shall not erect a dwelling-house on land within Zone No 1 (f) unless no other dwelling-house exists on the land and the land:

(a) is an allotment created by subdivision having an area of not less than 100 hectares,

(b) is an allotment created by subdivision in accordance with clause 23 (3),

(c) is an allotment created by subdivision in accordance with clause 23 (5) and the dwelling-house is ancillary to the use of the land for a purpose other than agriculture or forestry, or

(d) is part of a land parcel at the appointed day the area of which is not less than 40 hectares, and the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.

(1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.

(1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.

(2) One dwelling-house in addition to any dwelling-house which may be erected on the allotment or parcel in the absence of this subclause may, with the consent of the Council, be erected on an allotment or parcel referred to in subclause (1) which has an area of not less than 100 hectares, for each 100 hectares of the allotment or parcel if

the Council is satisfied that each additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use, for the purpose of agriculture, of that land or land belonging to the owner which adjoins or is adjacent to the land.

## **Division 7 Special provisions relating to Zone No 2 (a)**

### **25 Subdivision of land within Zone No 2 (a)**

A person shall not subdivide land within Zone No 2 (a) except with the consent of the Council.

### **26 Development on certain land at Dalmorton**

- (1) This clause applies to land at Dalmorton within Zone No 2 (a) and shown hatched on the map.
- (2) Notwithstanding the provisions of clause 9, development for the purposes of a dwelling-house and tourist facilities may be carried out on land to which this clause applies only with development consent.
- (3) Notwithstanding any other provision in this plan, the Council shall not consent to the carrying out of any development on land to which this clause applies unless it is satisfied that:
  - (a) the development proposed to be carried out is an integral part of the overall development of the land for tourist purposes,
  - (b) the land the subject of the overall development has been or will be consolidated into a single parcel prior to the development being carried out,
  - (c) adequate provision has been made for the supply of water and sewerage services to the whole of the land, and
  - (d) arrangements have been made to upgrade the existing road to Grafton to a satisfactory standard.

### **27 Dwelling-houses on certain land at Eatonsville**

- (1) This clause applies to land at Eatonsville within Zone No 2 (a).
- (2) Notwithstanding the provisions of clause 9, development for the purposes of a dwelling-house may be carried out on land to which this clause applies only with development consent.

## **Division 8 Special provisions relating to Zone No 3 (a)**

### **28 Certain development on land within Zone No 3 (a)**

- (1) A person shall not subdivide land within Zone No 3 (a) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 3 (a) where each allotment of land to be created by the subdivision has a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is intended to be used.

## **Division 9 Special provisions relating to Zone No 7 (a)**

### **29 Subdivision of land within Zone No 7 (a)**

A person shall not subdivide land within Zone No 7 (a).

## **Division 10 Special provisions relating to Zone No 7 (d)**

### **30 Subdivision of land within Zone No 7 (d)**

- (1) A person shall not subdivide land within Zone No 7 (d) except with the consent of the Council granted in accordance with this clause.
- (2) The Council may consent to the subdivision of land within Zone No 7 (d) where each allotment of land to be created by the subdivision has:
  - (a) an area of not less than 150 hectares,
  - (b) a ratio of depth to frontage satisfactory to the Council having regard to the purpose for which the allotment is intended to be used, and
  - (c) if the allotment has a frontage to an arterial road, a frontage to that road of not less than 500 metres.
- (3) Subject to subclause (4), the Council may consent to the subdivision of a land parcel within Zone No 7 (d) (not being an allotment having an area of less than 20 hectares) to create an allotment of not more than 2 hectares but not less than 8 000 square metres, being an allotment not having frontage to a main road, if the Council is satisfied that:
  - (a) the owner of the parcel at the time of the application owned the parcel continuously since 24 August 1973,
  - (b) a dwelling-house is or will be erected on the allotment, and
  - (c) the dwelling-house will be actually occupied by the owner of the land or a relative of the owner.

- (4) The Council shall not grant consent to a subdivision of land as referred to in subclause (3) if that subclause would result in the total number of allotments created by subdivision of land as referred to in subclause (3) (whether by one or more subdivisions made at any time on or after the 24 August 1973), from a land parcel in existence on 24 August 1973, exceeding:
  - (a) where the area of the land parcel at 24 August 1973 was less than 150 hectares but not less than 20 hectares—1, or
  - (b) where the area of the land parcel at 24 August 1973 was not less than 150 hectares—2.
- (5) The Council may consent to the subdivision of land within Zone No 7 (d) so as to create an allotment having an area of less than 150 hectares if the Council is satisfied that:
  - (a) the allotment is intended to be used for a purpose (other than agriculture, forestry or a dwelling-house) for which it may be used with the consent of the Council, and
  - (b) the ratio of depth to frontage of the allotment is satisfactory having regard to the purpose for which the allotment is intended to be used.

### **31 Erection of dwelling-houses on land within Zone No 7 (d)**

- (1) A person shall not erect a dwelling-house on land within Zone No 7 (d) unless no other dwelling-house exists on the land and the land:
  - (a) is an allotment created by subdivision having an area of not less than 150 hectares,
  - (b) is an allotment created by subdivision in accordance with subclause (3),
  - (c) is an allotment created after the appointed day, development consent for which was granted before the appointed day,
  - (d) is an allotment created by subdivision after 24 August 1973 to which the Council's consent has been given, or
  - (e) is part of a land parcel at the appointed day the area of which is not less than 40 hectares, and the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.
- (1A) One dwelling-house may, with the consent of the Council, be erected on land having an area of not less than that referred to in subclause (1) (a) provided that the land is serviced by a constructed public road, or arrangements have been made with the Council to provide constructed public road access.
- (1B) Where, in relation to a dwelling-house or shed to be erected on land within the zone

referred to in subclause (1), it is proposed to construct the dwelling-house or shed as the primary building on the land and the proposed building is to have external walls of metal cladding or the like, then the consent of Council shall be obtained to the erection of the proposed building.

- (2) One dwelling-house in addition to any dwelling-house which may be erected on the allotment or parcel in the absence of this subclause may, with the consent of the Council, be erected on an allotment or parcel referred to in subclause (1) which has an area of not less than 150 hectares, for each 150 hectares of the allotment or parcel if the Council is satisfied that each additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use, for the purpose of agriculture, of that land or land belonging to the owner which adjoins or is adjacent to that land, and that the erection of the dwelling-house will not have an adverse effect on the environment.

### **32 Statement of environmental effects relating to development within Zone No 7 (d)**

The Council shall not determine an application for consent to the carrying out of development within Zone No 7 (d) unless the application is accompanied by a statement as to:

- (a) the effect that the carrying out of the development including construction of access roads, may have on any landform,
- (b) any clearing of trees and vegetation necessary for or as a result of the carrying out of that development,
- (c) any soil erosion which may arise as a result of the carrying out of that development,
- (d) the location and height of buildings proposed to be erected in relation to roads, creeks, rivers and ridgelines,
- (e) building materials to be used in any building proposed to be erected,
- (f) any landscaping proposed to be carried out in relation to that development, and
- (g) any bushfire risk which may arise as a result of the carrying out of that development,

and the methods proposed to be taken to mitigate any effect of the carrying out of the development if considered adverse by the Council.

## **Part 4 Special provisions relating to the whole Shire**

### **33 Items of environmental heritage**

- (1) A person shall not, in respect of a building, work, relic or place that is an item or environmental heritage:

- (a) demolish, renovate or extend any such building or work,
- (b) damage or despoil any such relic or any part of any such relic,
- (c) excavate any land for the purpose of exposing or removing any such relic,
- (d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place, or
- (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

- (2) The Council shall not grant development consent to a development application in respect of an item of environmental heritage unless it has made an assessment of:
  - (a) the significance of the item as an item of the environmental heritage of the Shire of Nymboida,
  - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
  - (c) whether the setting of the item and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained, and
  - (d) whether the item constitutes a danger to the users or occupiers of that item or to the public.

#### **34 Development in the vicinity of items of environmental heritage**

The Council shall not consent to the carrying out of development in the vicinity of an item of environmental heritage unless it has made an assessment of the effect which the carrying out of that development will have on the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item of environmental heritage and its setting.

#### **35 Conservation incentive relating to heritage items**

- (1) Nothing in this plan prevents the Council from granting consent to the use for any purpose of a building that is an item of environmental heritage or of the land on which that building is erected, where the Council is satisfied that:
  - (a) the use would have little or no adverse effect on the amenity of the area, and
  - (b) conservation of the building depends on the Council granting consent as referred to in this subclause.



(2) The Council, when considering an application to erect a building on land upon which there is a building which is an item environmental heritage, may exclude from its calculation of the gross floor area of the buildings erected on the land the gross floor area of the item of environmental heritage:

(a) for the purposes of determining the floor space ratio, and

(b) for the purpose of determining the number of parking spaces to be provided on the site,

but only if the Council is satisfied that the conservation of the building which is an item or environmental heritage depends upon the Council granting consent as referred to in this subclause.

### **36 Heritage Council to be given prior notice of demolition consent**

Where a person makes a development application for consent to demolish a building or work that is an item of environmental heritage, the Council shall not consider that application until the Council has notified the Secretary of the Heritage Council of New South Wales of its intention to do so.

### **37 Advertising of heritage applications**

(1) Pursuant to section 30 (4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:

(a) the demolition of a building or work that is an item of environmental heritage, and

(b) the use of a building or land referred to in clause 35 for purpose which, but for that clause, would be prohibited under this plan,

in the same way as those provisions apply to and in respect of designated development.

(2) Subclause (1) does not apply to or in respect of an application for consent to the partial demolition of a building or work where, in the opinion of the Council, the partial demolition is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the Shire of Nymboida.

(3) For the purposes of subclause (1), section 84 (4) (a) of the Act shall be construed as if the words “, the Department (where the Minister or the Director is not the consent authority)” were omitted therefrom.

### **38 Replacement of existing dwelling-house**

A dwelling-house may, with the consent of the Council, be erected on an allotment of land on which another dwelling-house is erected if the firstmentioned dwelling-house is intended to wholly replace the secondmentioned dwelling-house.

### **39 Development on land which fronts an arterial road**

A building shall not be erected on land which fronts an arterial road:

- (a) for the purpose of a motel or caravan park, where the building will be closer than 45 metres from the alignment of the road,
- (b) for the purposes of an industry, where the building will be closer than 30 metres from the alignment of the road, and
- (c) for any purpose other than a motel, caravan park or an industry, where the building is closer than 20 metres from the alignment of the road.

### **40 Caravan parks**

A person shall not carry out development for the purpose of a caravan park on any allotment of land unless the area of the allotment is not less than 4 hectares and, where the allotment has frontage to a main or arterial road, the frontage to that road is not less than 200 metres.

### **41 Development under [Forestry Act 1916](#)**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (d), 1 (e), 1 (f) or 7 (d).
- (2) Notwithstanding the provisions of clause 9, development may be carried out on and to which this clause applies without development consent:
  - (a) by the Forestry Commission of New South Wales, if the development is authorised by the [Forestry Act 1916](#), or
  - (b) by any person, if the development is authorised by an authority granted or issued by the Forestry Commission of New South Wales under that Act.

### **42 Flood prone land**

- (1) A person shall not carry out any development on flood prone land unless development consent has been obtained for the carrying out of that development.
- (2) Where a development application is made for consent to erection of a building or a work on flood prone land, the Council may, as a condition of its consent, require the floor of the building or work to be erected at a height sufficient, in the opinion of the council, to prevent or reduce the incidence of flooding of that building work or of adjoining land.

### **43 Community use of school sites etc**

- (1) This clause applies to all land where development for the purpose of schools, colleges or other educational establishments may be carried out.
- (2) Notwithstanding any other provision of this plan, the Council may consent to:

- (a) the community use of the facilities and sites of schools, colleges and other educational establishments,
- (b) the commercial operation of those facilities and sites, and
- (c) the carrying out of development for community purposes on land used for the purposes of schools, colleges or other educational establishments, whether or not the development is ancillary to any such purpose.

#### **44 Erection of dwelling-houses on certain land**

Notwithstanding the provisions of this plan, one dwelling-house may be erected and used on each of the lots specified in Schedule 2.

#### **45 Provision of services**

The Council shall not consent to the carrying out of any development on an allotment of land where, as a result of the carrying out of that development, it will be necessary to provide potable water or sewerage and drainage facilities to the allotment unless it is satisfied that adequate arrangements have been made for the provision of that water or those facilities.

#### **46 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 3 for a 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.

#### **47 What is exempt and complying development?**

- (1) Development of minimal environmental impact listed as exempt development in *Development Control Plan No 3: Exempt and Complying Development*, as adopted by the Council on 18 April 2001, is **exempt development** despite any other provision of this plan.
- (2) Development listed as complying development in *Development Control Plan No 3: Exempt and Complying Development*, as adopted by the Council on 18 April 2001, is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act.

- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Development Control Plan No 3: Exempt and Complying Development*, as adopted by the Council on 18 April 2001.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Development Control Plan No 3: Exempt and Complying Development*, as in force when the certificate is issued.
- (5) In relation to land within the local government area of Clarence Valley, a reference in this clause to *Development Control Plan No 3: Exempt and Complying Development*, as adopted by the Council on 18 April 2001, is a reference to that Plan, as amended by the following instruments:

*Pristine Waters Development Control Plan No 3: Exempt Development Amendment No 1* as adopted by the Council on 20 July 2004.

## **Schedule 1 Items of environmental heritage**

(Clause 5 (1))

- 1** All cemeteries and burial grounds both private and public situated within the Shire of Nymboida whether in use at the appointed day or not.
- 2** Ramornie meat works site, being part of portions 4 and 8, Parish of Turville, County of Fitzroy.
- 3** Convict built road tunnel, Old Glen Innes Road.
- 4** Ramornie homestead and barn.
- 5** Dalmorton police lock-up and court house.
- 6** Nymboida Hydro-electric Power Station.
- 7** Mount Remarkable Gold Mine on Sheep Station Creek, Parish of Springbrook, County of Gresham.
- 8** Nymboida Coal Mines, portions 58 and 79, Parish of Nymboida.
- 9** Goolang and Blaxlands Creeks Fossil Wood Deposits, Parishes of Koukandowie, Blaxland and Nymboida.

## **Schedule 2 Allotments subject to exception**

(Clause 44)

Lots 1-3, DP 615886, Parish of Southampton.  
Lots 2-21, DP 247573, Parish of Southampton.  
Lot 24, DP 247573, Parish of Southampton.

### **Schedule 3 Development for certain additional purposes**

(Clause 46)

Land, being the whole of the land within the Village of Dundurrabin, as shown edged heavy black on the map marked "*Nymboida Local Environmental Plan, 1986 (Amendment No 1)*"—home industries, light industries.