

# Guyra Local Environmental Plan 1988

[1988-424]



New South Wales

## Status Information

### Currency of version

Historical version for 10 December 2004 to 20 October 2005 (accessed 26 November 2024 at 4:53)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Authorisation

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File last modified 10 December 2004

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New South Wales

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# Guyra Local Environmental Plan 1988



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Guyra Local Environmental Plan 1988*.

### 2 Aims, objectives etc

(1) This plan aims:

- (a) to consolidate the provisions of the *Town of Guyra Planning Scheme Ordinance* and Interim Development Orders Nos 1, 2, 3, 4, 6 and 7—Shire of Guyra, and *Guyra Local Environmental Plan No 1* within a single local environmental plan, and
- (b) to simplify the general restrictions on development of land in the Shire of Guyra.

(2) The objectives of each zone contained in this plan are set out in the Table to clause 9.

### 3 Land to which plan applies

This plan applies to all land situated in the Shire of Guyra.

### 4 Relationship to other environmental planning instruments

This plan repeals the following environmental planning instruments:

- (a) the *Town of Guyra Planning Scheme Ordinance*,
- (b) Interim Development Orders Nos 1, 2, 3, 4, 6 and 7—Shire of Guyra,
- (c) *Guyra Local Environmental Plan No 1*,
- (d) 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 then applied to that land.

### 5 Interpretation

(1) In this plan:

**arterial road** means a road indicated on the map by a broken black line between firm black lines.

**conservation area** means land shown edged heavy black on the map marked “Heritage Conservation”.

**Council** means the Council of the Shire of Guyra.

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

**item of the environmental heritage** means a building, work, relic or place of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance to the Shire of Guyra:

- (a) situated in a conservation area,
- (b) described in Schedule 1, or
- (c) identified as an item of the environmental heritage in a development control plan.

**neighbourhood shop** means a shop designed to cater for the servicing of the immediate residential area, being a shop with a floor area not greater than 80 square metres (not including the floor area of any dwelling attached to the shop).

**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 for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include a racecourse or a showground.

**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 Shire of Guyra.

**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.

**the map** means the series of maps marked “*Guyra Local Environmental Plan 1988*”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

*Guyra Local Environmental Plan 1988 (Amendment No 2)*

*Guyra Local Environmental Plan 1988 (Amendment No 4)*

*Guyra Local Environmental Plan 1988 (Amendment No 5)*

*Guyra Local Environmental Plan 1988 (Amendment No 8)*

(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 definition of **map** in clause 4 (1),
- (b) the definition of **arterial road** in clause 4 (1), and
- (c) clauses 15, 29 and 31,

are adopted for the purposes of this plan.

## **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) (General Rural Zone)—edged black and lettered “1 (a)”,
- Zone No 1 (b) (Rural (Arterial Road Frontage) Zone)—edged black and lettered “1 (b)”,
- Zone No 1 (c) (Rural (Small Holdings) Zone)—edged black and lettered “1 (c)”,
- Zone No 2 (a) (General Residential Zone)—edged black and lettered “2 (a)”,
- Zone No 2 (v) (Village Zone)—edged black and lettered “2 (v)”,
- Zone No 3 (a) (General Business Zone)—edged black and lettered “3 (a)”,
- Zone No 4 (General Industrial Zone)—edged black and lettered “4 (a)”,
- Zone No 5 (a) (Special Uses “A” Zone)—edged black and lettered “5 (a)”,
- Zone No 5 (b) (Special Uses “B” Zone)—edged black and lettered “5 (b)”,
- Zone No 6 (a) (Public Recreation (Existing) Zone)—edged black and lettered “6 (a)”,
- Zone No 6 (b) (Open Space (Proposed) Zone)—edged black and lettered “6 (b)”,
- Zone No 8 (a) (National Park and Nature Reserve Zone)—edged black and lettered “8 (a)”,
- Zone No 9 (a) (Reservations (Roads, carparking etc) Zone)—edged black and lettered “9 (a)”.

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

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
  - (a) development may be carried out without development consent,
  - (b) development may be carried out only with development consent, and
  - (c) development is prohibited,are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (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 carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

**Zone No 1 (a) (General Rural Zone)**

**1 Objectives of zone**

The objectives of this zone are to encourage agriculture and agriculture-related land uses. No restrictions are placed on agricultural enterprise except in relation to some intensive keeping of animals, which requires the Council's consent.

**2 Without development consent**

Agriculture (other than intensive pig and poultry keeping and lot feeding of livestock where over 50 cattle or 250 sheep are housed); forestry.

**3 Only with development consent**

Any purpose other than a purpose included in Item 2 or 4.

**4 Prohibited**

Boarding houses; motor showrooms; residential flat buildings; shops other than general stores; taverns.

**Zone No 1 (b) (Rural (Arterial Road Frontage) Zone)**

**1 Objectives of zone**

The objective of this zone is to maintain a corridor along major National and State Highways so as to protect those roads from unnecessary traffic-generating developments which affect the efficient and save movement of the travelling public.

**2 Without development consent**

Agriculture (other than intensive pig and poultry keeping and lot feeding of livestock where over 200 cattle or 1 000 sheep are housed); forestry.

**3 Only with development consent**

Any purpose other than a purpose included in Item 2 or 4.

**4 Prohibited**

Boarding-houses; bulk stores; car repair stations; commercial premises; junk yards; liquid fuel depots; motor showrooms; offensive or hazardous



industries; residential flat buildings; retail plant nurseries; roadside stalls; shops; taverns; timber yards; transport terminals; warehouses.

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

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

The objective of this zone is to make provision for small rural holdings in appropriate locations having regard to accessibility, availability of services and expansion of the Town of Guyra.

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

Agriculture (other than pig keeping, poultry keeping and lot feeding of livestock); dwelling-houses; forestry.

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

Any purpose other than a purpose included in Item 2 or 4.

#### **4 Prohibited**

Advertising structures; boarding houses; bulk stores; bus depots; car repair stations; caravan parks; commercial premises; drive-in theatres; feed lots; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; motels; motor showrooms; piggeries; places of assembly; poultry farms; refreshment rooms; residential flat buildings; roadside stalls; sawmills; service stations; shops and general stores; stock and saleyards; taverns; timber yards; transport terminals; warehouses.

### **Zone No 2 (a) (General Residential Zone)**

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

The objective of this zone is to provide areas for housing and associated facilities.

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

Dwelling-houses.

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

Any purpose other than a purpose included in Item 2 or 4.

#### **4 Prohibited**

Advertising structures; bulk stores; car repair stations; caravan parks; clubs; commercial premises; gas holders; generating works; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; mines; motor showrooms; places of assembly; refreshment rooms; retail plant nurseries; roadside stalls; sawmills; service stations; shops other than neighbourhood shops; stock and saleyards; timber yards; tourist facilities; transport terminals; warehouses.

#### **Zone No 2 (v) (Village Zone)**

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

The objective of this zone is to continue to control the growth of a wide range of uses and to service the rural areas and major transport routes, and provide an alternative location to commercial, industrial and residential uses which can be properly integrated with each other.

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

Dwelling-houses.

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

Any purpose other than a purpose included in Item 2 or 4.

##### **4 Prohibited**

Institutions; mines; offensive or hazardous industries.

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

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

The objective of this zone is to provide for retail, commercial, high density residential, restricted light industry and warehousing uses. This zone incorporates the main Guyra business district. The allocation of adequate areas for general business is aimed at providing centralised convenience for shoppers and to reduce the encroachment of business development into housing areas.

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

Nil.

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

Any purpose other than a purpose included in Item 4.

### **4 Prohibited**

Amusement parks; boarding houses; caravan parks; dwelling-houses (other than those used in conjunction with shops or commercial premises); gas holders or generating works; hospitals; industries other than light industries; institutions; junk yards; liquid fuel depots; mines; roadside stalls; sawmills; stock and saleyards; timber yards; transport terminals (other than airline terminals and bus stations).

## **Zone No 4 (General Industrial Zone)**

### **1 Objectives of zone**

The objective of this zone is to provide adequate areas for all industrial activities, except offensive or hazardous industries. The provision of adequate areas for industry discourages such activities from being established in the business sector or in residential areas. Retail activities are not permitted in the industrial zone except for the purpose of wholesale distribution of goods and the sale of products manufactured on industrial sites.

### **2 Without development consent**

Nil.

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

Any purpose other than a purpose included in Item 4.

### **4 Prohibited**

Boarding houses; caravan parks; commercial premises; dwelling-houses or residential flat buildings (other than dwelling-houses used in conjunction with an industry and situated on the land on which the industry is conducted or residential flat buildings so used and so situated); educational establishments; extractive industries; hospitals; institutions; mines; motels; offensive or hazardous industries; places of assembly; roadside stalls; shops (other than those situated on land on which industry is conducted and used for the purpose of the sale of goods manufactured on the land).

## **Zone No 5 (a) (Special Uses “A” Zone)**

### **1 Objectives of zone**

The objective of this zone is to define areas used for the purpose of education, public buildings, public utility undertakings, depots, church activities, cemeteries and private and public institutions. The activities defined in each zone are specific and consent to those activities will not be refused, but the Council may apply conditions to any such consent.

### **2 Without development consent**

Nil.

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

The particular purpose indicated by black lettering on the map and any purpose ordinarily incidental or subsidiary to that purpose; drainage; roads; utility installations (other than gas holders or generating works).

### **4 Prohibited**

Any purpose other than a purpose included in Item 3.

## **Zone No 5 (b) (Special Uses “B” Zone)**

### **1 Objectives of zone**

This zone includes all land which is owned by the State Rail Authority and on which railway purposes may be carried out without development consent. Activities may be carried out on railway land which are not railway purposes but, in that case, the consent of the Council is required. These activities may include facilities for uses which require rail transport such as industry, warehousing and the like or uses permitted in an immediately adjacent zone.

### **2 Without development consent**

Railway purposes.

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

Bulk stores; drainage; roads; utility installations (other than gas holders or generating works); warehouses; uses permitted in an immediately adjacent zone.

#### **4 Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

### **Zone No 6 (a) (Public Recreation (Existing) Zone)**

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

This zone is intended to identify public land which is set aside principally for the purposes of public recreation. It is the traditional concept of a public reserve.

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

Works for the purposes of landscaping, gardening or bushfire hazard reduction

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

Recreation areas; buildings for the purposes of landscaping, gardening or bushfire hazard reduction.

#### **4 Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

### **Zone No 6 (b) (Open Space (Proposed) Zone)**

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

The objective of this zone is to provide for the acquisition of lands required for active or passive recreational activities in the future.

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

Nil.

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

Agriculture; bowling greens; caravan parks; community centres; drainage; forestry; parking; racecourses; recreation establishments; recreation facilities; roads; showgrounds; sports grounds; utility installations (other than gas holders or generating works).

#### **4 Prohibited**

Any purpose other than a purpose included in Item 3.

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

### **1 Objectives of zone**

The objectives are:

- (a) to set aside certain lands for any purpose under the *National Parks and Wildlife Act 1974* and purposes incidental thereto, and
- (b) to identify, preserve and manage national parks, nature reserves, state recreation areas and Aboriginal areas for conservation and recreation purposes and permit development of lands as deemed appropriate by the Director of National Parks and Wildlife.

### **2 Without development consent**

Development carried out by or on behalf of the National Parks and Wildlife Service under the *National Parks and Wildlife Act 1974*, or any purpose ordinarily incidental or subsidiary to that development.

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

Nil.

### **4 Prohibited**

Any purpose other than a purpose specified in item 2.

## **Zone No 9 (a) (Reservations (Roads, carparking etc) Zone)**

### **1 Objectives of zone**

The objective of this zone is to identify those areas required for future local and main roads, carparking and other special uses.

### **2 Without development consent**

Nil.

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

The particular purpose indicated by black lettering on the map and any purpose ordinarily incidental or subsidiary to that purpose; drainage; roads.

### **4 Prohibited**

Any purpose other than a purpose included in Item 3.

## Part 3 Special provisions

### 9A What is exempt and complying development?

- (1) Development of minimal environmental impact listed in *Development Control Plan No 3* as adopted by the Council on 19 October 1998 is **exempt development**, despite any other provision of this plan.
- (2) Development listed in *Development Control Plan No 3* as adopted by the Council on 19 October 1998 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* as adopted by the Council on 19 October 1998.
- (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* adopted by the Council, as in force when the certificate is issued.

### 10 Subdivision—generally

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

### 11 Subdivision of land within Zone No 1 (a) or 1 (b)

- (1) This clause applies to land within Zone No 1 (a) or 1 (b).
- (2) The Council shall not consent to the subdivision of land to which this clause applies unless each allotment to be created by the subdivision has:
  - (a) an area of not less than 200 hectares, and
  - (b) where the allotment has frontage to a main or arterial road—frontage to that road of not less than 400 metres.
- (3) The Council may consent to an application to subdivide land to which this clause applies comprising an existing holding to create not more than 2 allotments of not less than 2 hectares and not more than 4 hectares if:
  - (a) the land contained in the existing holding is not less than 100 hectares, and
  - (b) the Council is satisfied that the proposed allotment will not encroach on to prime agricultural land and that existing public road access is available.

- (4) Only one allotment per existing holding may be created in accordance with subclause (3) if the area of the existing holding is less than or equal to 200 hectares and 2 allotments per existing holding may be subdivided in accordance with subclause (2) if the area of the existing holding exceeds 200 hectares.
- (5) For the purpose of this clause, **existing holding** means:
  - (a) except as provided by paragraph (b), a holding comprising the area of a lot, portion or parcel of land as it was at 27 November 1970, or
  - (b) where a person owns 2 or more adjoining or adjacent lots, portions or parcels of land, a holding comprising the aggregation of the areas of those lots, portions or parcels as they were at 27 November 1970.
- (6) This clause shall not operate to prevent the excision from an existing holding of an area of land of less than 200 hectares if the Council is satisfied that such land is to be used for agricultural purposes and if the land excised is consolidated with an adjoining parcel of land.

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

- (1) The Council shall not consent to the subdivision of land in Zone No 1 (c) shown with vertical hatching on the map unless:
  - (a) the area of each allotment created by the subdivision is:
    - (i) not less than 8 000 square metres, for allotments with on-site disposal of wastes, or
    - (ii) not less than 4 000 square metres, for allotments to be connected to the Council's sewerage system, and
  - (b) any allotment with frontage to a main or arterial road has a minimum frontage of 80 metres.
- (2) The Council shall not consent to the subdivision of land in Zone No 1 (c) shown with horizontal hatching on the map unless:
  - (a) the area of each allotment created by the subdivision is not less than 2 hectares, and
  - (b) there is no means of vehicular access from any allotment to a main or arterial road.
- (3) The Council shall not consent to the subdivision of other land within Zone No 1 (c) unless:
  - (a) the area of each allotment created by the subdivision is not less than 8 hectares, and



- (b) the ratio of depth to frontage of each allotment created by the subdivision is satisfactory to the Council, having regard to the purpose for which the allotment is intended to be used.
- (4) Despite any other provision of this plan, the installation of a septic disposal system is prohibited within a buffer area comprised of land within 200 metres of, and above, the contour line shown as "1313.8 A.H.D." on Sheet 1 of the map marked "*Guyra Local Environmental Plan 1988 (Amendment No 2)*". That line defines the perimeter of the Mother of Ducks Lagoon.
- (5) The total number of allotments that may be created under this clause in any five-year period is not to exceed the number specified by the Council and agreed to by the Director-General of the Department of Urban Affairs and Planning.

### **13 Subdivision of land within Zone No 2 (a) or 2 (v)**

The Council shall not consent to the subdivision of land within Zone No 2 (a) or 2 (v) unless each separate allotment of land created by the subdivision has an area of not less than 2 000 square metres for allotments with on-site disposal of wastes or such greater area as the Council may consider necessary for adequate on-site disposal of wastes.

### **14 Erection of dwelling-houses in Zone No 1 (a) or 1 (b)**

- (1) This clause applies to land within Zone No 1 (a) or 1 (b).
- (2) For the purposes of this clause, ***existing holding*** means:
  - (a) except as provided by paragraph (b), a holding comprising the area of a lot, portion or parcel of land as it was at 27 November 1970, or
  - (b) where a person owns 2 or more adjoining or adjacent lots, portions or parcels of land, a holding comprising the aggregation of the areas of those lots, portions or parcels as they were at 27 November 1970.
- (3) A dwelling-house may, with the consent of the council, be erected on an allotment of land to which this clause applies if:
  - (a) the allotment has an area of not less than 200 hectares and, in the opinion of the Council, has adequate constructed access,
  - (b) in the case of an allotment (other than one referred to in paragraph (c)) having an area of less than 200 hectares:
    - (i) the allotment has, in the opinion of the Council, adequate constructed access,
    - (ii) the allotment does not have a dwelling-house situated on it and the Council is satisfied that the land comprises the whole of an existing holding,
    - (iii) adequate arrangements have been made for the provision of vehicular access

- to the site of the proposed dwelling-house,
- (iv) the erection of the proposed dwelling-house will not create or increase ribbon development along a main or arterial road, and
  - (v) adequate public utility services will be available to the land, or
- (c) the allotment:
- (i) has an area of less than 200 hectares but was lawfully created under *Interim Development Order No 4—Shire of Guyra*, or
  - (ii) has an area of less than 200 hectares but was created in accordance with clause 11 (3).
- (4) A dwelling-house may, with the consent of the Council, be erected on an allotment of land to which this clause applies on which another dwelling-house is erected if the firstmentioned dwelling-house is intended to wholly replace the secondmentioned dwelling-house.
- (5) One additional dwelling-house may, with the consent of the Council, be erected on an allotment of land to which this clause applies, being land having an area of not less than 40 hectares, for each 40 hectares of the land, if the Council is satisfied that:
- (a) each such 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 of land which belongs to the owner and which adjoins or is adjacent to that land, and
  - (b) the erection of each such additional dwelling-house will not impair the suitability of the land for agriculture.

## **15 Items of the environmental heritage**

- (1) A person shall not, in respect of a building, work or relic that is an item of the environmental heritage:
- (a) demolish or renovate the building or work,
  - (b) damage or despoil the relic, or any part of the relic or place,
  - (c) excavate any land for the purpose of exposing or removing that 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 consent to an application made in pursuance of subclause (1) unless it has made an assessment of:
- (a) the significance of the item as an item of the environmental heritage of the Shire of Guyra,
  - (b) the extent to which the carrying out of 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.

#### **16 Development in the vicinity of an item of the environmental heritage**

The Council shall not grant consent to an application to carry out development in the vicinity of an item of the 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 the environmental heritage and its setting.

#### **17 Conservation area**

- (1) A person shall not, in respect of a conservation area:
- (a) demolish, extend or change the outside of a building or work within that area, including changes to the outside of a building or work that involve the repair or the painting, plastering or other decoration of the outside of the building or work,
  - (b) damage or despoil a relic or part of a relic within that area,
  - (c) excavate any land for the purpose of exposing or removing a relic within that area,
  - (d) erect a building within that area, or
  - (e) subdivide land within that area,
- except with the consent of the Council.
- (2) The Council shall not grant consent to an application made in pursuance of subclause (1) unless it has made an assessment of:
- (a) 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 conservation area, and

(b) whether a refusal to grant consent would constitute a danger to the users or occupiers of land on which the development is to be carried out or the public.

(3) The Council shall not grant consent to an application made in pursuance of subclause (1), being an application to erect a new building or to alter the exterior of an existing building, unless the Council has made an assessment of:

(a) the pitch and form of the roof;

(b) the style, size, proportion and position of the openings for windows and doors, and

(c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the conservation area.

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

Where a person makes a development application to demolish a building or work that is an item of the environmental heritage, 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.

### **19 Advertising of heritage applications**

(1) Subject to subclause (2), 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 within a conservation area,

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

(c) the use of a building or land referred to in clause 20 (1) for a 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 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 Guyra.

### **20 Conservation incentives 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 the 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 in pursuance of this subclause.

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

- (a) for the purposes of determining the floor space ratio, and
- (b) for the purposes 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 depends on the Council granting consent in pursuance of this subclause.

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

- (1) This clause applies to all land where development for the purposes 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.

## **22 Acquisition of reserved lands**

- (1) The owner of any land within Zone No 6 (b) or 9 (a) may, by notice in writing, require the Council to acquire that land.
- (2) On receipt of a notice referred to in subclause (1), the Council shall acquire the land.
- (3) Until the land referred to in subclause (1) is acquired by the Council, development for any purpose may, with the consent of the Council, be carried out on that land.

## **23 Advertising of certain applications**

- (1) This clause applies to development proposed to be carried out:

- (a) on land within Zone No 2 (a) or 2 (v) for the purposes of boarding-houses, buildings containing 2 dwellings, home industries, hospitals, motels, places of public worship or residential flat buildings, or
  - (b) on land within Zone No 3 (a) for the purposes of motels, places of public assembly, places of public worship or residential flat buildings.
- (2) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development to which this clause applies in the same manner as those provisions apply to and in respect of designated development.

#### **24 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, the operation of any agreement, covenant or instrument which purports to impose restrictions on the carrying out of development on land to which this plan applies, to the extent necessary to serve that purpose, shall not apply to any such development.
- (2) Pursuant to section 28 of the Act, before the making of this plan the Governor approved of subclause (1).

#### **25 Accommodation for itinerant workers**

Nothing in this plan prevents the provision with the consent of the Council, on land used for commercial farming operations, of caravan parks to cater for transient workers on that land.

#### **26 Prohibition of certain development**

Neighbourhood shops are not permitted on any land within Zone No 2 (a) which has a frontage to State Highway No 9.

#### **27 Development near certain zone boundaries**

- (1) This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 2 (a), 2 (v), 3 or 4.
- (2) A person may, with the consent of the Council, carry out development on land within a zone referred to in subclause (1) for any purpose for which development may be carried out in any adjoining zone referred to in subclause (1) within 50 metres of the boundary between those zones.
- (3) The Council shall not grant consent as referred to in subclause (2) unless:
- (a) the development is necessary, in the opinion of the Council, due to design requirements relating to the development of land to which this plan applies, and
  - (b) an area of land sufficient and suitable, in the opinion of the Council, is not

available elsewhere in the immediate vicinity of the development for the purposes for which the land on which that development is carried out is zoned.

## **28 Dual occupancy**

(1) Where:

(a) in pursuance of this plan, development for the purposes of a dwelling-house may be carried out on an allotment of land either with or without the necessity for development consent being obtained, and

(b) a dwelling-house is to be erected, or exists on that allotment,

a person, may with the consent of the Council, erect a dwelling-house so as to create 2 dwellings or alter or add to the existing dwelling-house so as to create 2 dwellings.

(2) The Council shall not grant consent pursuant to subclause (1) unless:

(a) the area of the allotment on which the dwelling-house is erected is not less than 400 square metres, and

(b) it is satisfied that arrangements satisfactory to it have been made for the provision of a water supply and for the disposal of sewage and stormwater drainage from the land.

(3) The Council may, in relation to a consent granted pursuant to subclause (1), impose a condition requiring the owner of the allotment to occupy one of the dwellings so created.

(4) The provisions of this plan relating to residential flat buildings shall not apply to a dwelling-house erected, altered or added to in accordance with this clause.

## **29 Development for certain additional purposes**

(1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out on land described in Schedule 2 the development specified in that Schedule in relation to that land, subject to such conditions (if any) as are so specified.

(2) Subclause (1) does not affect the application, to and in respect of the 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.

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

(Clause 5)

1 Remains of Watermill, 2 kilometres east of New England Highway on Streeter's Road and situated on portion 165, Parish of Bagot, County of Clarke.

- 2 Ben Lomond Railway Station.
- 3 Black Mountain Railway Station.
- 4 Ollera Station including the cottage, shearing shed with surrounding landscape and trees and the Chapel of St Bartholemew's Church of England—all being situated on portion 5, Parish of Skinner, County of Clarke.
- 5 The Tingha stone formation area, lot 96, portion lots 97, 98, of portion 37, Parish of Copes Creek—5 kilometres south of Tingha on Sutherland's Water.

## **Schedule 2 Development for certain additional purposes**

(Clause 29)

Lot No 284, Deposited Plan 755824, Parish of Falconer, known as No 161 Malpas Street, Guyra, as shown edged heavy black on the map marked "*Guyra Local Environmental Plan 1988 (Amendment No 3)*"—development for the purpose of a retail plant nursery.

Lots 322 and 323, Parish of Falconer, No 286 Falconer Street, Guyra, as shown edged heavy black on the map marked "*Guyra Local Environmental Plan 1988 (Amendment No 6)*"—development for the purpose of a retail plant nursery and for the sale of garden-related products, craft and devonshire teas.

Lot 3, Deposited Plan No 621001, Lot 2, Deposited Plan No 509678 and Part Lot 11, Deposited Plan No 800805, Parish of Falconer, cnr New England Highway and Falconer Road, Guyra, as shown edged heavy black on the map marked "*Guyra Local Environmental Plan 1988 (Amendment No 5)*"—development for the purpose of shops and other retail activities, motels and a motor showroom.